

5085
A C T S

P A S S E D A T A

General Assembly

O F T H E

C O M M O N W E A L T H O F V I R G I N I A.

CHAPTER I.

An ACT to amend the Laws of Revenue, to provide for the Support of Civil Government, and the gradual Redemption of all the Debts due by this Commonwealth.

Passed the 1st of JANUARY, 1788.

SECTION I. WHEREAS it appears to the present General Assembly, upon an accurate examination of the various branches of revenue, and the several demands on the public for the debts and expences of government, that the taxes now levied on the citizens of this commonwealth are greater than the circumstances of the people will admit of, without suffering great distress, and it appearing also that some of the taxes may be reduced and sufficient provision made, NEVERTHELESS, for the support of civil government, and the actual payment of the annual interest of all the debts due by the state, and a sum may also be applied in discharge of part of the principal of such debts; it hath therefore become necessary to amend the laws of revenue in such manner as will give relief to the people and best tend to strengthen and confirm public credit;

SECTION II. BE it therefore enacted, That whereas by an act, intituled, "An act to revive and amend an act for redeeming certain certificates," the following duties are imposed, to wit: Twenty shillings for every hundred pounds, and so proportion for a greater or lesser sum of the valuation of all lands and lots as same is charged under the act for equalizing the land tax, also a tax of ten shillings to be paid by every free male person above the age of twenty-one years, who shall be a citizen of this commonwealth, and also the like sum of ten shillings on all slaves above the age of sixteen years, to be paid by the owners thereof, except such free persons and slaves as shall be exempted by the respective county courts through age or infirmity, also two shillings for every horse, mare, bolt, and colt; also five shillings per wheel for all coaches, chariots, phætons, four-wheeled chaises, stage waggon for riding carriages, chairs, and two-wheeled chaises; also fifteen pounds for every billiard table, and four pounds for every ordinary license over and above the taxes imposed by any other act or acts of Assembly, which taxes have amounted to the net annual sum of one hundred sixty-four thousand two hundred and sixty-six pounds, three shillings and six pence, and the meaning and intention of the said act being principally to provide for the redemption of the certificates granted for militia service and for property raised or taken for public service, for calling in of which certificates no other hath been provided; and whereas but a small amount of the said certificates remain in the hands of the people after the arrearages of the said taxes shall be paid into the public treasury, and some other mode may be adopted for calling the balance of the said certificates in a manner more convenient than by compelling the collection of the said taxes in manner preferred by the said act.

SECTION III. BE it therefore enacted, That the act, intituled, "An act for calling and redeeming certain certificates," shall be, and the same is hereby repealed.

SECTION IV. AND that adequate provision may be made for the redemption of the securities, and for aiding the sinking fund, BE it farther enacted, That from and after the first day of March next, all such goods and merchandise as are herein mentioned, which shall be imported or brought into this state, by land or water, shall be subject to the duties and imposts herein after mentioned, over and above the duties and imposts thereon laid by any other act of Assembly, that is to say,

Upon every gallon of rum, one shilling; every gallon of other distilled liquors, one shilling; every gallon of Madeira wine, one shilling and six pence; every gallon of wines, other than Madeira, one shilling; every gallon of porter, ale or beer, nine pence; every pound of snuff, one shilling; every pound of manufactured tobacco, one shilling; every pound of loaf or lump sugar, one shilling; every pound of coffee, three pence; every pound of pepper, six pence; every pound of pimento or allspice, four pence; every pound of dressed leather, one shilling; every pound of tanned leather, four pence; every pound of bohea tea,

one shilling; every pound of tea of other quality, two shillings; every hundred weight of cordage, four shillings; every hundred weight of bar iron, four shillings; every hundred weight of iron pots, kettles, or other iron castings, four shillings; every hundred weight of nail rod and bolts, six shillings; every dozen bottles of wine, in bottles commonly called quart bottles, and in that proportion for all wines in bottles, three shillings; every dozen bottles of malt liquors, in bottles commonly called quart bottles, and in that proportion for all bottled malt liquors, two shillings and six pence; upon riding carriages from a foreign port or the manufacture of any foreign country, as follows; every coach, chariot, or post chaise, twenty pounds; every other four wheeled carriage, fifteen pounds; every two wheeled carriage, ten pounds; every clock, five pounds; every dozen of axes, eight shillings; every dozen of hoes, six shillings; every saddle, twelve shillings; every pair of womens or childrens shoes or slippers of stuff or Morocco leather, one shilling; every pair of womens silk shoes, two shillings; every pair of mens or womens leather shoes or slippers, one shilling; every pair of boots, six shillings; every pair of boot legs, one shilling and six pence; every dozen packs of playing cards, thirty shillings; every bushel of coals, six pence; every hundred weight of salted beef, except ship stores, twenty shillings; every hundred weight of pork, except ship stores, twenty shillings; every pound of candles, except ship stores, four pence; every pound of soap, except ship stores, four pence; upon all hats, ten per centum ad valorem; upon all ready made wearing apparel not before enumerated (except gloves and stockings) on all metal coat and waistcoat buttons, on all horse and carriage whips and walking sticks or canes, on all gold or silver lace, ten per centum ad valorem; and upon all goods, wares and merchandize, whatsoever, not before enumerated, except salt, a duty of three per centum ad valorem. The duties aforesaid shall be paid to the several naval officers, or other persons legally authorised to collect the duties or imposts heretofore payable upon goods, wares, or merchandize, imported or brought into this state; and if any person importing any of the goods before enumerated, shall fail to make due entry thereof within the time by law prescribed, the penalty shall be the same and recovery had in like manner as in the case of persons importing rum and failing to make due entry thereof. The said duties shall be paid in Spanish milled dollars, at the rate of six shillings each, or in other silver or gold coin, at a proportionable value, or may be discharged by the payment of a like sum in any specie certificates or warrants legally issued for any debt due by this state, or by the payment thereof in notes for tobacco given to soldiers for bounties, allowing at the rate of twenty shillings per hundred for such tobacco. Three months credit shall be allowed the owner or importer of the goods, wares and merchandize herein before enumerated for payment of the duties hereby imposed, on giving bond with security to be approved of by the naval officer with whom such entry is made, which bonds if not paid when the same shall become due, shall be recovered in like manner with bonds granted for the payment of the duties on rum. And if any person chargeable with any of the duties hereby imposed on any of the articles above enumerated shall at any time make payment thereof in specie to any naval officer or collector duly authorised to collect such duties, the person who hath so paid the same or his agent or attorney duly authorised for that purpose, may at any time within sixty days after making such payment, demand and receive of such officer the amount of specie so paid, on tendering to him the like sum in any of the public securities above described, unless the officer to whom such money may have been paid shall have accounted for and paid the same into the public treasury, in which case, the officer who may have collected such duty in specie, shall give to the person who paid the same, or to his agent or attorney duly authorised for that purpose, a certificate thereof, which certificate or other satisfactory proof being adduced to the Executive, within sixty days from the time of such payment, it shall appear to be lawful for the Governor with advice of Council, to direct the Auditor of Public Accounts to issue a warrant for the like sum in specie, which the Treasurer shall pay out of any money in his hands arising from duties or imposts. Provided, the person demanding the said payment in specie shall at the same time pay to the Treasurer the amount thereof in any of the public securities above described.

SECT. V. PROVIDED ALWAYS that all goods, wares and merchandise above enumerated, of the growth, production or manufacture of any of the United States of America, except distilled spirits extracted from any substance or materials which are not the growth or production of any of the United States of America, shall be exempted from the payment of all duties and imposts hereby imposed. But nothing herein contained shall be construed to prevent or in any manner obstruct or delay the full payment of all arreages heretofore due under the operation of the said recited act, which arreages shall be paid, collected and distrained for, and the amount thereof paid into the public treasury, and in all cases the like proceedings shall be had and judgment thereupon awarded in such manner as if this act had not been made.

SECT. VI. AND WHEREAS since the establishment of the present system of revenue in the sessions of Assembly held in October, one thousand seven hundred and eighty-one, various warrants to a considerable amount have been issued by the Auditors of Public Accounts for payment of money due to the public creditors, and sundry votes of the General Assembly have also passed for the payment of certain sums therein specified, for the redemption of which warrants and making good such votes particular branches of the revenue have been from time to time assigned; and some of the warrants so issued have been by law declared receivable in payment of any part of the revenue tax equal to specie, whilst others of the said warrants have been limited to the payment of some particular branch of the revenue; by which means the several appropriations have been deranged and many of the public creditors have been prevented from receiving payment of their just claims, in such time and manner as was intended by the Legislature, and the great variety of such warrants, and the several appropriations of taxes and arreages of taxes having rendered the present laws of revenue in many instances intricate and complicated and productive of much embarrassment to the creditors of the public, as well as great perplexity in the accounts of the revenue.

SECT. VII. AND WHEREAS it is necessary for strengthening the public credit and simplifying the public accounts, that the laws respecting the same shall be amended, and adequate provision made for the redemption of all warrants heretofore issued by the Auditors of Public Accounts, and for making good all votes of the General Assembly for the payment of money or tobacco where any of the public funds have been charged with such payments;

SECT. VIII. AND WHEREAS the arreages of taxes due for the year one thousand seven hundred and eighty-six and for former years will be more than sufficient to discharge all such warrants and votes of the General Assembly, PROVIDED such arreages shall be so applied, Be it therefore enacted, that all arreages of taxes now due to this commonwealth by the several sheriffs and collectors for the taxes of the year one thousand seven hundred and eighty-six and for all former years which have arisen or become due under the act "For ascertaining certain taxes and duties, and for establishing a permanent revenue, and all arreages of taxes which have arisen or become due by the several sheriffs and collectors under the act "To amend and reduce the several acts for ascertaining certain taxes and duties, and for establishing a permanent revenue into one act," or by the several acts amending the same, shall constitute a fund to be called the aggregate fund, and shall be applied to the payment of all such warrants heretofore issued, or which may issue by the Auditor of Public Accounts, on or before the last day of December one thousand seven hundred and eighty-seven, and for all votes of the General Assembly for the payment of any sum of money or quantity of tobacco, PROVIDED such warrants or votes have been charged on any of the branches of revenue arising from the taxes to be collected by the sheriffs or collectors of public taxes under the operation of the aforesaid acts, and shall also be applied to the payment of all such votes for payment of any sum of money or quantity of tobacco, as may pass during the present session of Assembly, unless the same shall be otherwise specially provided for.

SECT. IX. AND WHEREAS it will contribute to the convenience of those persons who may be in arrears for taxes, and tend to strengthen the public credit if the warrants coming within the above description shall be declared by law to be receivable by the various sheriffs and collectors of taxes in discharge of the arreages of the year one thousand seven hundred and eighty-six, or in discharge of the arreages of any former year; Be it therefore enacted, That all warrants heretofore issued or which may be issued on or before the last day of December, one thousand seven hundred and eighty-seven, by the Auditor or Auditors of Public Accounts, to be paid out of the taxes or arreages of one thousand seven hundred and eighty-six, or of any preceding year; also all warrants issued within the period aforesaid, for wages or salaries, or arrears of wages or salaries allowed by law to the Governor, the Members of the Privy Council, the Delegates to Congress, the Speakers of the Senate and the House of Delegates, the members of the General Assembly, and the officers of every denomination attending thereon, the Judges of the High Court of Chancery, Judges of the General Court, Judges of the Court of Admiralty, the Treasurer, Attorney General, auditors for Public Accounts, Solicitor General, clerks to the Council, to the treasurer, to the Auditors and to the Solicitor General, the keeper of the public seal, to the public armourers, and warrants issued to any person for any expences relating the arsenal at the Point of Fork, to the public printers, to the register of the land office, and to all naval officers or searchers for their salaries; also all warrants drawn on the contingent fund, and all warrants for allowance to military pensioners, and the expences of criminal prosecutions, and to apprehenders of horse stealers; also all warrants for interest on the certificates granted the officers and soldiers of the Virginia line, both land and naval, on continental and state establishments, for their arrears of pay and depreciation, the warrants for the interest on the state loan office debt, and the interest due for the certificates granted for the paper money of this state funded, and all warrants granted for the interest on the debts due by the state for slaves executed by legal sentence, and all warrants granted for the payment of money or tobacco lent the public on the requisition of the General Assembly in the session held in May, one thousand seven hundred and eighty; such tobacco being previously valued in money under the direction

of the Executive, and all warrants for money lent the public on the requisition of Thomas Jefferson, Esquire, then Governor of this commonwealth, shall be receivable as specie by all sheriffs or collectors of public taxes in payment of all taxes due to this commonwealth for the year one thousand seven hundred and eighty-six or any former year, under the aforesaid laws of revenue: And every sheriff or collector of such taxes on payment thereof into the public treasury, shall have credit accordingly: and that all doubts may be removed respecting the redemption of any of the warrants above enumerated, the Treasurer is hereby directed and required, on application to him made for that purpose, to indorse on the same that any sheriff or collector of public taxes making payment thereof into the treasury, will have credit for the amount thereof, in discharge of any specie tax due for the revenue of one thousand seven hundred and eighty-six, or any former year under the laws aforesaid: But nothing herein contained shall be construed to prevent the warrants issued or which may be issued hereafter by the Auditor or Auditors of Public Accounts for payment of the salaries of the officers of civil government, and the warrants in like manner issued, or which may be issued for the payment of interest on the certificates granted the officers and soldiers of the Virginia line, both land and naval, on continental and state establishments for their arrears of pay and depreciation, from being received as heretofore by law directed in payment of any part of the revenue tax now due, or which may hereafter become due, but the same shall be receivable by all sheriffs and collectors of public taxes, and on payment thereof into the treasury every such sheriff or collector shall have credit for the same in like manner as if this act had not been made.

SECT. X. AND WHEREAS debts are due to certain persons for advances made by them as agents for the state or to those persons with whom such agents or others legally authorized to make contracts have made engagements to pay money or tobacco for property purchased for the use and on account of the public, AND WHEREAS also various debts are due for land appropriated for public use by the directors of the public buildings, and for rents of houses contracted for or occupied on public account, and in some cases funds have not been set apart for payment thereof, and in other cases where funds have been charged therewith such funds may not have proved productive;

SECT. XI. BE it therefore enacted, That all debts which may be due to any of the following persons, viz: Thomas Smith, Benjamin Day, David Ross, William Hay, William Armistead, and Duncan Rose, who were agents for this state for providing arms, cloathing, and other necessaries, and whose accounts have been settled by the Executive, or any persons legally authorized to make such settlement; also all debts due to any persons whatsoever for goods, wares or merchandise supplied the said agents or either of them on public account, and who have credit for the same on the public books of such agents or either of them shall be paid out of the said aggregate fund:

SECT. XII. PROVIDED that where any of the agents aforesaid, or any other person or persons having, or being entitled to have credit on any of the public books of such agents, shall not have made a settlement of such claims or demands with the Executive, or with some person or persons legally authorized to make such settlement, the Governor, with advice of Council, is hereby authorized to cause the same to be fairly settled and adjusted, and to grant a special order to the Auditor of Public Accounts to issue a warrant or warrants for the balances which may be justly due thereon, expressing in such warrant that the same will be received of any Sheriff or Collector of public taxes in discharge of the arreages of one thousand seven hundred and eighty six, or of any former year arising under the laws of revenue before recited. The said fund shall also be charged, and in like manner warrants shall issue by special order of the Executive, for all sums of money due by the public for lands appropriated by the directors of the public buildings to public purposes, or for rents of houses occupied or contracted for on public account. And where any of the aforesaid debts are due in tobacco, and the value thereof in money hath not been heretofore established, the Governor shall take such means as to him with advice of Council shall seem proper, to establish the just value in money at which such tobacco ought to be settled, and shall direct the Auditor of Public Accounts to issue warrants for the same accordingly.

SECT. XIII. AND WHEREAS sundry votes of the General Assembly have from time to time passed, and warrants have also been issued by the Auditors of Public Accounts for the payment of certain sums of money or quantities of tobacco for debts due to persons not coming within any of the descriptions aforesaid, and no funds have been assigned for the payment of such votes or of the warrants so issued, Be it therefore enacted, that the Governor may direct the Auditor of Public Accounts to issue warrants on the aggregate fund in favor of any public creditor whose claims have been settled by any vote of the General Assembly, or by warrant from the Auditors of Public Accounts; provided it shall appear to the Governor with advice of Council proper and necessary, having regard to the nature of the claim, in order to comply with the public engagements to make such arrangement in favour of the person applying for the same.

SECT. XIV. AND WHEREAS a considerable part of the arreages of one thousand seven hundred and eighty six and former years may be expended in the redemption of warrants which may be issued after the last day of December one thousand seven hundred and eighty seven, and therefore properly chargeable on the revenue for the year one thousand seven hundred and eighty seven, for which the several Sheriffs and Collectors are allowed by law to distrain from and after the first day of January one thousand seven hundred and eighty eight. For remedy whereof and to prevent the several appropriations from interfering with each other to the prejudice of any public creditor, Be it enacted, that the treasurer shall keep an account of all warrants issued after the last day of December one thousand seven hundred and eighty seven, which may be paid in discharge of the arreages of one thousand seven hundred and eighty six, or any former year; and shall draw as much money from the funds appropriated to the redemption of such warrants from the revenue of one thousand seven hundred and eighty seven as will make good the same; and in like manner he shall keep another account of

all warrants issued on or before the said last day of December, one thousand seven hundred and eighty seven which are paid in discharge of the revenue of one thousand seven hundred and eighty seven, and shall draw as much money from the arrearages of one thousand seven hundred and eighty six, or any preceding year, as will make good the same. All the surplus of the arrearages of one thousand seven hundred and eighty six, and of all former years, after making good the aforesaid appropriations, shall be applied in aid of the several existing requisitions of Congress, and either paid in specie or applied to the procuring of any of the securities of the United States as may to the Governor with advice of Council seem most necessary for the interest of the state and a compliance with the public engagement.

SECT. XV. AND WHEREAS by the act providing a sinking fund passed at the present session, the interest of certificates which have been or shall hereafter be received in payment of taxes, are appropriated in aid of the said fund, and there remains a considerable amount in military certificates received for confiscated property the interest of which has not been appropriated, Be it further enacted, that the interest arising from and after the first day of January next on all certificates for confiscated property which have been paid into the treasury, shall be in like manner appropriated in aid of the said sinking fund as directed by the said recited act in the case of interest accruing on other redeemed certificates.

SECT. XVI. AND WHEREAS it appears from official returns made to this Assembly, that the various branches of revenue exclusive of the certificate tax yield the nett annual sum of three hundred and forty thousand six hundred and one pounds fifteen shillings and three pence halfpenny in specie, which sum will be considerably increased by the manner of listing all taxable property as directed by an act passed last session of Assembly, and by the taxes arising under the act entitled "An act imposing new taxes;" AND whereas the various demands on the public for the support of civil government, including an allowance for contingent expenses, the allowance to military pensioners, the expences of criminal prosecutions, the expences of the state boats, and the arsenals at the Point of Fork, the state's shares in the Potowmack and James River companies, the interest on the military debt, the loan office debt, and the debt due for paper money funded, doth not annually exceed the sum of one hundred and thirteen thousand six hundred and eighty seven pounds five shillings and eight pence, and therefore the aforesaid revenue is more than equal to the redemption of the warrants issued for payment of the several demands above enumerated, and also to the payment of the balance due on the several existing requisitions of Congress; and it will tend to strengthen and confirm the public credit if the warrants issued for payment of the aforesaid claims and expences of government shall be by law made receivable in payment of all taxes whatever, except as hereafter excepted. Be it therefore enacted, that all warrants issued by the Auditor of Public Accounts for the wages of the members of the General Assembly, and every expense attending thereon for the salaries of the officers of civil government, and for defraying the contingent charges thereof, all warrants so issued for allowance to military pensioners, and for the expences of criminal prosecutions, and to apprehenders of horse stealers, for the expences of the state boats, and the arsenals at the Point of Fork, for the shares in the Potowmack and James river companies, for the interest on the certificates granted the officers and soldiers of the Virginia line both land and naval on continental and state establishments for their arrears of pay and depreciation, also warrants for the interest on state loan office debt, and for the interest arising on the paper money of this state funded, also all salaries or allowances to the public printer, and to the keeper of the public jail, shall be receivable as specie by all Sheriffs and Collectors of public taxes for any of the taxes arising under the act entitled "An act to amend and revise the several acts of Assembly for ascertaining certain taxes and duties, and establishing a permanent revenue into one act," also for all taxes arising under the act imposing new taxes." And every Sheriff or Collector on payment thereof of the public treasury shall have credit accordingly. And that the said warrants may be rendered more extensively useful than heretofore, the Auditor of Public Accounts is hereby directed and required on application to him made for that purpose to issue such warrants to those persons who have a right to draw the same in small sums as he or they in whose favor the said warrants so to be issued may direct or demand, and shall insert in the said warrant or indorse on the back of that it shall be received of any Sheriff or Collector as specie in payment of part of the revenue tax or of the new taxes.

SECT. XVII. AND WHEREAS certain duties on goods imported have appropriated to the payment of certain debts due to persons who are not citizens of this state, and for other purposes, and the said duties have produced sums adequate to such appropriations; and it will tend to strengthen the credit of government securities and facilitate the payment of the duties aforesaid if persons chargeable therewith shall be permitted to make payment thereof in arrears before enumerated as soon as a sufficient sum shall be raised therefrom to discharge the debts for which the said duties have been appropriated; therefore enacted, that all duties or imposts on any goods, wares, or merchandise whatsoever which shall be imported and entered at any custom-house in this state on or after the last day of November next, except the duties on tonnage, and the duties imposed by an act entitled, "An act to impose an general duty of two per centum ad valorem on goods, wares, and merchandise into this commonwealth," shall be discharged by the payment of the same of the warrants above enumerated equal to specie. And every Naval Officer, Collector of such duties or imposts, on payment thereof into the public treasury shall have credit for the same accordingly. And if the drawer or holder of a warrant shall require or desire the Auditor of Public Accounts to indorse on a warrant, that the same shall be received as specie in payment of all duties on goods imported on or after the said last day of November next, except on tonnage, and the duty of two per cent, as aforesaid, the Auditor shall be such indorsed accordingly.

SECT. XVIII. AND WHEREAS certain warrants issued by special order of the Executive to be paid out of the foreign fund, and redeemable by money

arising from part of the duty on goods imported, and other branches of the revenue arising from duties and imposts, are appropriated to the redemption of the warrants granted for interest on the military certificates, and it will tend to strengthen the credit of such warrants and facilitate the payment of the said duties and imposts if the same shall be declared receivable as specie by the several Naval Officers or other persons legally authorized to collect such dues as soon as sufficient time can be given for publication of this act; Be it therefore enacted, that all duties or imposts arising or to become due to this commonwealth for any goods, wares, or merchandise imported into the same, and entered at any custom-house therein on or after the first day of January in the year one thousand seven hundred and eighty eight, except the duties on tonnage, and the additional duty of two per cent, may be discharged by the payment thereof in any of the warrants issued by special order of the Executive on the foreign fund, or by payment thereof in warrants by the Auditor or Auditors of Public Accounts for interest on the certificates granted the officers and soldiers of the Virginia line, both land and naval on continental and state establishments, for their arrears of pay and depreciation, which warrants shall be received by the Naval Officers or other persons legally authorized to collect the same, as specie in discharge of all duties or imposts arising on goods, wares, or merchandise imported or entered on or after the first day of January one thousand seven hundred and eighty eight, except as before excepted. And such Naval Officers or Collectors, on payment thereof into the public treasury, shall have credit for the same accordingly.

SECT. XIX. AND WHEREAS it is necessary to appropriate the revenue of one thousand seven hundred and eighty seven, for which the Sheriffs or Collectors may claim on the first day of January one thousand seven hundred and eighty eight, and also all branches of revenue which ought to be paid into the public treasury in the course of the year one thousand seven hundred and eighty eight, so as to provide for the public engagements and sinking part of the principal of the public debts; AND WHEREAS it appears by a statement of an account transmittted by the Board of Treasury of the United States to the Executive of this state, and now laid before the General Assembly, that the United States in Congress assembled demand of this state five hundred and thirty three thousand six hundred and seventy nine dollars in specie, and one million one hundred and seventy seven thousand nine hundred and one dollars and sixty eight ninetieths of a dollar in indents, as the balance due on the several existing requisitions of Congress, payments made since the thirtieth day of June last excepted; and it becomes necessary to ascertain the funds from which the balance justly due on the said requisition shall be paid; Be it therefore enacted, that in aid of the money and indents now in the treasury arising from so much of the land tax and slave tax as hath been appropriated to continental purposes, all the money arising from the operation of an act intituled "An act imposing new taxes," shall be applied; also the sum of one hundred and fifty thousand dollars arising from the tax of one and a half per cent, on lands and unimproved lots, of which money such a proportion shall be applied by the Executive to procure indents for discharging the aforesaid requisition as shall to the Governor with advice of Council seem proper.

SECT. XX. AND WHEREAS the funds heretofore appropriated for the support of civil government have been so uncertain in their amount and collection, that the salaries to the Judges of the Supreme Courts, and other officers of government, have not been paid with the punctuality requisite in every well regulated state, and it hath become necessary to make appropriation for that purpose of funds more certain and productive, Be it therefore enacted, that all Naval Officers and other officers who collect any of the public revenues, shall be allowed on settlement of their accounts to retain in their own hands as much of the money by them collected as will make good their own salaries or allowances by which they are by law entitled, any law to the contrary notwithstanding.

SECT. XXI. AND WHEREAS in aid of the funds destined for the payment of debts due to persons not citizens of this state, the tax arising on law processes and alienations hath been heretofore applied; AND WHEREAS the said debts have been greatly reduced, and will be soon fully paid out of the money arising on the said tax on process and alienations to support the administration of justice; Be it therefore enacted, that all the money arising under the said tax, which shall be specie only, shall be set apart for the payment of the salaries of the Judges of the Supreme Courts, and to no other purpose whatsoever. And that no disappointment may arise in the payment of such salaries, the treasurer is hereby directed and required to make good any deficiency which may at any time happen out of the first receipts of the money arising from such part of the land tax, as by this act is appropriated to the support of civil government. One tenth part of the money arising from the tax of one and a half per centum on lands and unimproved lots shall be applied to the redemption of the paper money funded, conformably to the recommendation of Congress of the eighteenth of March one thousand seven hundred and eighty; the interest arising on the paper money of this state funded agreeable to an act passed in October one thousand seven hundred and eighty one, entitled "An act for funding the paper money" and which hath been from time to time revived and continued, shall also be made good out of the said tax. All the rest of the money arising from the said tax on lands and unimproved lots shall constitute a fund for the support of civil government; and in aid of the said fund the sum of fifteen thousand pounds shall be drawn from the general fund: And if there shall be any surplus arising from the said money after paying the expences of the Convention proposed to be held in the city of Richmond in June next, such surplus shall be carried to the sinking fund. All the money arising from taxable property shall as heretofore form a general fund; ten thousand pounds of which shall be at the disposal of the Executive to defray the contingent charges of government; and one thousand pounds shall be subject to the votes of the General Assembly, as the public exigencies may require. From the taxes forming the said fund shall be paid by the Sheriffs (according to an act intituled "An act to amend an act intituled an act concerning pensioners") the pensions due to wounded or

disabled officers and soldiers. The sum of six thousand pounds of the money arising from the said fund shall be applied under the direction of the Executive to the purchase of arms for the use of the militia. The interest arising on the loan office debt registered in the Auditor's office shall also be made good out of the said fund; warrants for such interest being issued annually agreeably to law: The said fund shall also be liable to make good all warrants heretofore drawn on the general, military, or contingent funds, and all sums voted by the General Assembly during the present session, and not otherwise provided for: The said fund shall also make good the warrants heretofore issued and which may hereafter be issued to venire-men and witnesses for their attendance on criminal prosecutions, and to apprehenders of horse-stealers. PROVIDED ALWAYS, that the monies which may be drawn from the revenues of one thousand seven hundred and eighty-seven, or any future year, that may be paid in discharge of any of the warrants or votes aforesaid with which the arrearages of one thousand seven hundred and eighty-six or of any former year is properly chargeable, shall by the Treasurer be made good out of the said arrearages and replaced in the funds of that year from whence such payments shall be drawn. All money arising from the tax on slaves above the age of sixteen years shall, as heretofore, be applied to the payment of the interest due, or hereafter to become due, on the certificates issued to the army and navy of this state for their arrears of pay and depreciation. The duty of four shillings per hogshead on tobacco exported shall also be applied in aid of the said slave tax. The duties on goods imported which have been heretofore appropriated to the redemption of the military debt shall also be applied to the payment of the said interest.

SECT. XXII. AND WHEREAS the situation of public affairs prevents the payment at present of any part of the principal of the said military debt, and it is judged absolutely necessary for the support of public credit, that the strongest assurance shall be given for the punctual payment of the interest thereof; Be it therefore enacted, That if the money arising from half of the slave tax for the year one thousand seven hundred and eighty-seven, which the sheriffs or collectors may distrain for on the first day of January, one thousand seven hundred and eighty-eight, and the duty of four shillings per hogshead on tobacco exported, and the several duties above enumerated on goods imported shall prove inadequate to the payment of such interest, such deficiency shall be supplied out of the general fund; and if there shall be any surplus arising in the said fund after payment of the warrants for interest now issued, or which may be issued in the course of the year one thousand seven hundred and eighty-eight, all such surplus shall be applied in aid of the general fund. The sum of six thousand pounds shall be applied annually to the purchase of arms and ammunition, in such manner as to the Governor with advice of Council shall seem expedient; and for this purpose all the net revenue arising from the land office shall be applied, and if there shall be any deficiency the same shall be made good from the duty on tonnage. The duty of two and a half per cent on merchandise imported and the balance which may yet be due from the sale of the Gosport lands shall constitute the fund for the payment of debts due by this state to foreign creditors, until the warrants for eighty thousand pounds directed to be issued in favor of the said creditors by the act, entitled, "An act to amend the act, entitled, an act to amend and reduce the several acts of Assembly for appropriating the public revenue into one act," shall be fully redeemed; after which all the monies arising from the said duty of two and a half per cent, shall be applied, one half thereof in aid of the sinking fund, and the other half subject to the future direction of the General Assembly, as the public exigencies may require. Two thousand pounds arising from the tonnage on vessels shall be appropriated to defraying the charges of the boats *Liberty* and *Patriot* under the direction of the Executive, and the surplus thereof, after making good the said two thousand pounds, and the money appropriated to the purchase of arms shall be applied to the defraying the expences of the members representing this state in Congress, PROVIDED the funds assigned for support of civil government shall at any time be insufficient to make good the expences of the said delegates, and if there shall be any surplus arising from the said duty on tonnage it shall be carried to the fund for the support of civil government, except the duty of six pence per ton imposed for support of a light house, which shall be specially set apart and reserved for that purpose. The Treasurer shall as heretofore from the surplus of any public money arising from the importation of tobacco, pay the subscription to the Potowmack and James River companies, on behalf of this state, as the several dividends may be applied for from time to time by the president and directors of the said company; the money due for the tobacco destroyed when Syrd's ware-houses were burnt, shall also be made good from the same, which the Treasurer shall pay by such installments as the state of the said fund will admit, and the balance of the said surplus money, unless otherwise directed by some act of the present Assembly, shall go in aid of the general fund. The additional duty of two per centum ad valorem imposed by an act of Assembly, intituled, "An act to impose an additional duty of two per centum ad valorem on goods, wares and merchandise imported into this commonwealth," shall be applied to the payment of six thousand pounds voted by the General Assembly last session towards completing the capitol in the city of Richmond, and the surplus, if any, shall be reserved in the treasury subject to the future directions of the General Assembly. The money due for fines executed by legal sentence shall be paid, one half thereof out of the aggregate fund, and the other half out of the general fund; and it shall and may be lawful for the Auditor of Public Accounts to grant warrants accordingly, or where warrants have been already granted, to issue new warrants in exchange for them formerly issued, expressing therein that the said warrants will be received as specie in payment of the arrearages of taxes, or in payment of the revenue of one thousand seven hundred and eighty-seven, as the case may be, in like manner with other warrants charged on the said funds, agreeably to this act.

SECT. XXIII. AND be it further enacted, That the Executive be empowered, and required to direct the Treasurer in the mode of selling tobacco, which may be paid into the public treasury in discharge of any taxes now due,

or hereafter to become due to this commonwealth. And all the taxes imposed by the act, intituled, "An act for imposing new taxes," except so much thereof as is directed to be paid to, and collected by the clerks of the courts, may be discharged by the payment thereof in tobacco, at the like prices as the same may be paid in discharge of the taxes imposed by the laws establishing a permanent revenue; and every sheriff or collector on payment thereof into the public treasury shall have credit for the same accordingly; any thing in the said act for imposing new taxes, or in any other act to the contrary notwithstanding.

SECT. XXIV. AND be it further enacted, That all money or tobacco now in the treasury shall be applied agreeable to the laws appropriating the same.

SECT. XXV. AND WHEREAS the tax on young slaves and the tax on free males above the age of twenty-one years, have been found very burthenome and the situation of the public revenues will justify a remission of the said taxes Be it therefore enacted, That so much of the laws of revenue as impose a tax of ten shillings to be paid by each free male person above the age of twenty-one years, shall be, and the same is hereby repealed: And if any such tax for the revenue of one thousand seven hundred and eighty-seven, hath been paid to any sheriff or collector of taxes the same shall be restored to the person who hath paid the same: So much of the slave tax for the revenue of one thousand seven hundred and eighty-seven, as by law is charged on slaves under the age of sixteen shall be remitted, and all persons chargeable therewith shall be discharged from the payment thereof; and if any person chargeable therewith hath paid any part thereof to any sheriff or collector of taxes, the same shall be by such sheriff or collector restored to the person who hath paid the same.

SECT. XXVI. AND WHEREAS it is reasonable that slaves above the age of twelve years should in future pay taxes, Be it therefore enacted, That an account of all slaves above the age of twelve years, shall by the owner or overseer thereof be given to the person or persons by law appointed to take the list of taxable property, and a tax of ten shillings shall be paid for the slaves, except for the revenue of one thousand seven hundred and eighty-seven, as above excepted; the said tax shall be paid, collected and distrained for at such times, and under like regulations, and in default thereof, the same remedy shall be had as prescribed by the act, intituled, "An act to reduce and amend the several acts of Assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue into one act."

SECT. XXVII. AND be it further enacted, That so much of every act of Assembly as imposes a tax on cattle, shall be, and the same is hereby repealed.

SECT. XXVIII. PROVIDED ALWAYS, that nothing herein contained shall prevent the collection and recovery of any arrearages of the taxes due before on free male tithehables above the age of twenty one years, and on slaves under the age of fifteen, and on neat cattle, but such arrearages shall be collected and distrained for, and recovery had against all delinquent Sheriffs and Collectors, and in all cases the damages on failure of payment thereof shall be the same as if this act had not been made.

C H A P. II.

An ACT to amend the several Acts respecting the MILITIA. Passed the 27th of DECEMBER, 1787.

SECTION I. BE it enacted by the General Assembly, That the Governor with the advice of the Council, shall apply the money by him appropriated to the purchase of arms, in procuring such artillery, small arms, accoutrements and ammunition, as may to him with such advice seem proper and the small arms so procured shall be distributed to the different counties in proportion to the number of their militia. Every private receiving such arms and accoutrements shall hold the same subject to the like rules, penalties and forfeitures, as are prescribed for a poor private in and by the act of Assembly, intituled, "An act to amend and reduce into one act the several laws for regulating and disciplining the militia, and guarding against invasions and insurrections."

SECT. II. AND be it further enacted, That a troop of cavalry to consist of thirty-six men to each regiment, which shall amount to five hundred men, so in proportion both of officers and men for a regiment, which may consist of smaller number, be raised out of and annexed to the militia of each county within this commonwealth, to be enlisted by voluntary enlistments, and for that purpose the Governor with the advice of the Council shall issue commissions for Captain, Lieutenant and Cornet of horse to every regiment of militia within their respective counties.

SECT. III. PROVIDED always, That the Governor with the advice as said, be, and he is hereby authorised to issue like commissions for more than a troop of horse in any of the counties on the western waters, where the same shall be found necessary. And all commissions hereby directed to be issued shall void, unless the number of men to be enlisted for such troop or part of a troop be completed within twelve months.

SECT. IV. EVERY Captain shall, after qualifying as directed for officers, proceed to enlist the aforesaid number of men, who shall find and provide themselves each with a horse and necessary accoutrements, and be subject to the same regulations and orders as the rest of the militia.

SECT. V. AND be it further enacted, That the Governor with the advice of Council, shall be empowered to order out into actual service from time to time many scouts and rangers in any of the counties on the western frontier from any other counties the most convenient as to them shall seem necessary, expence whereof shall be defrayed out of the funds provided or to be provided for the support of government. So much of the said recited act as comprehends the militia to provide arms and accoutrements is hereby repealed.

SECT. VI. AND be it further enacted, That where the courts martial exempt any of the militia on account of bodily infirmity from duty, they again direct such persons to be enrolled when able to do duty.

C H A P. III.

A C T to amend an Act, intituled, an An to amend the Act, intituled, an Act to restrict Foreign Vessels to certain Parts in this Commonwealth.

Passed the 5th of JANUARY, 1788.

SECTION I. **F**OR the better securing the revenue arising from duties on imports and exports, whereby the burthen of taxes upon the people may not be increased; and for regulating the trade of this commonwealth, hereby foreigners may be placed on a more equal footing;

SECT. II. *B E it enacted,* That from and after the first day of February next, the following places shall be, and the same are hereby established as ports of entrance and clearance for all ships and other vessels coming from or going to any port or place without this commonwealth, that is to say: For the district of Elizabeth River, the port of Norfolk; for the district of James River, the port of Hampton; for the district of York River, the port of York; for the district of Rappahannock River, the port of Urbanna; for the district of South Potowmack, at the ports of Yeocomico, or Alexandria: Provided, that all dues of entrance or clearance at Alexandria, shall and may be made with a deputy, appointed by the Naval Officer of the said district, and residing at the said port; for the district of Accomack, at Accomack court-house; and for the district of Northampton, the port of Cherrifton. And that all vessels coming into or going out of this commonwealth shall proceed to one or other of the said ports as above directed; and shall there be subject to such regulations as are or may be by law established. And the masters or owners of such vessels shall perform and do all things which shall be lawfully demanded of them, by either of them, by the Naval Officers residing at the ports respectively. And no ship or other vessel coming into or going out of this commonwealth, shall break bulk or sail from thence without a legal permit for that purpose first obtained from the Naval Officer at the port within the district into which such vessel shall enter, or from which such vessel may go.

SECT. III. *AND be it further enacted,* That the following places shall be, and the same are hereby established as ports of delivery for the unlading and lading of all vessels coming into or going out of this state, not built within the United States and not wholly owned by a citizen or citizens thereof, that is to say: For the district of Elizabeth River, the ports of Norfolk or Portsmouth; or the district of James River, the ports of Bermuda-Hundred or City-Point; or the district of York River, the ports of York Town and West-Point; for the district of Rappahannock River, the ports of Tappahannock, Urbanna, or Port-Royal; for the district of Potowmack River, the port of Yeocomico, mouth of Quantico, and Alexandria; for the district of Accomack, at Folly's Landing, and Onancock; and for the district of Northampton, at Cherrifton.

SECT. IV. *AND be it further enacted,* That the following places, shall be, and the same are hereby established as ports of delivery for the unlading and lading of all vessels coming into or going out of this commonwealth, built within the United States, and wholly owned by a citizen or citizens thereof, and navigated according to law, that is to say: For the district of Elizabeth River, the ports of Norfolk, Portsmouth, and Suffolk; for the district of James River, the ports of Hampton, Bermuda-Hundred, City-Point, Petersburg, and Rockets Landing; for the district of York River, the ports of York and West-Point; for the district of Rappahannock River, the ports of Urbanna, Tappahannock, Port-Royal and Fredericksburg; for the district of Potowmack River, the ports of Yeocomico, mouth of Quantico, and Alexandria; for the district of Accomack, Folly's Landing, and Onancock; and for the district of Northampton, at Cherrifton: Provided always, that any vessel built within the United States, and wilfully owned by a citizen or citizens thereof as aforesaid, and navigated according to law, shall and may be made at any port or place within this commonwealth, with any article or articles for exportation.

SECT. V. *AND be it further enacted,* That no vessel coming into any of the aforesaid districts, from any port or place without this commonwealth, or going from thence to any port or place without the same, except as before is excepted and provided for, shall be permitted to break bulk or unlade or lade on board any goods, wares or merchandise whatsoever, at any other port or place within the said districts, nor until a permit for that purpose be obtained, and all lawful dues, tonnage or imposts paid or secured to be paid as the law shall direct; and moreover the said vessels and the goods, wares and merchandise laden therein, and masters, owners and crews thereof shall be subject to, and shall do and perform all manner of regulations and things established, or to be established or required by law, at the aforesaid ports of delivery. Any master or owner of any vessel aforesaid, or any owner, importer, or exporter of any goods, wares, or merchandise aforesaid, wilfully neglecting or refusing to comply with this act, shall forfeit the vessel, together with her rigging, tackle, and apparel, or the goods, wares, and merchandise, as the case may be, one half to the commonwealth, and the other half to the informer, to be recovered by information in the court of admiralty.

SECT. VI. *AND be it further enacted,* That all persons owning any vessel above eighteen feet in length by the keel, to be employed as river or bay craft, shall obtain a register for the same, from the clerk of the court of the county or corporation, in which such owner may reside, specifying the names of the owner and skipper thereof, and the number of men employed therein, which shall be recorded by the clerk of the county or corporation aforesaid, in a book kept for that purpose, who shall receive the fee of two shillings and six pence for every vessel, to be paid by the owner thereof; and every owner, master or skipper of such river or bay craft, when employed by the owner or master of such vessel at the ports of delivery aforesaid, shall deliver to such owner or master

employing the same, if demanded, a copy of the said register, under his hand, and shall be answerable for the safe keeping and delivery of all goods, wares, and merchandise received on board such river or bay craft, damage from winds and weather excepted, according to the order of the person slipping the same on board thereof, and for default therein, shall forfeit and pay the full value of such goods, wares and merchandise to the party grieved, recoverable by information in the court of the county or corporation wherein such owner of craft may reside; and moreover shall be liable to an action for damages to the party grieved as aforesaid. If any owner, master or skipper of any vessel as aforesaid, to be employed as river or bay craft, shall presume to take on board his said vessel any goods, wares, or merchandise upon freight or hire, not being first qualified therefor pursuant to this act, such owner, master or skipper shall forfeit and pay the sum of fifty pounds, recoverable by information in any court of record within this commonwealth, one half thereof to the person suing for the same, and the other half to the commonwealth aforesaid. If any person not being a citizen of this commonwealth, or some one of the United States, and resident therein, be owner or part owner of any vessel employed as river or bay craft, such vessel shall be forfeited, together with her rigging, tackle, apparel and furniture; one half to the informer, and the other half to the use of the commonwealth, recoverable in the court of Admiralty.

SECT. VII. *AND be it further enacted,* That the district of South Quay shall be a separate district as heretofore established; and that the Executive be, and they are hereby authorised to appoint a Naval Officer for the same, who shall keep his office at the port of South Quay. All masters or commanders of vessels coming into this commonwealth shall be obliged to make a true and just report to the Naval Officer at the lowest port of entry upon the river, they shall be bound to, except the river Potowmack, of all the cargo on board of their vessel, a copy of which report shall be transmitted under the hand and seal of such Naval Officer to the deputy Naval Officer at the port of entry to which such vessel may proceed, where full entry shall be made and the duties secured, and if any master or commander of a vessel shall break bulk before he secures the dues, such vessel together with her rigging, tackle, apparel and furniture, and the goods, wares and merchandise so unladen or put on shore shall be forfeited and condemned in the Court of Admiralty, one half to the informer, the other half to the use of the commonwealth, and moreover the master or commander of such vessel, shall forfeit and pay the two hundred pounds recoverable by plaint or information in any court of record, to the use of the informer.

SECT. VIII. *AND be it further enacted,* That so much of all and every other act or acts of Assembly as comes within the purview of this act, shall be, and the same is hereby repealed.

C H A P. IV.

An ACT to amend the several Acts of Assembly concerning Naval Officers, and the Collection of the Duties.

Passed the 7th of JANUARY, 1788.

SECTION I. *B E it enacted by the General Assembly,* that there shall be a Naval Officer for each of the following districts, that is to say: For the district of Elizabeth river commencing at Cape Henry and extending from thence up Nansemond and James rivers, including the several creeks and inlets thereof: For the district of James river extending from Back river point up James river, including the several creeks and inlets thereof: For the district of South Quay: For the district of York river: For the district of Rappahannock river: For the district of South Potowmack: For the district of the county of Accomack: And for the district of the county of Northampton.

SECT. II. The present Naval Officers shall be continued; and every vacancy shall be supplied by joint ballot of both Houses of Assembly, and a commission shall issue from the Governor in pursuance thereof: But a vacancy happening in the recesses of the Assembly, or happening at any time and not filled up by the next Assembly following, such vacancy may be supplied by a temporary appointment of the Executive until the end of the succeeding session of Assembly.

SECT. III. The residence of the Naval Officers shall be as follows, that is to say, of the Naval Officer of Elizabeth river at Norfolk or Portsmouth, of the Naval Officer of James river at Hampton, of the Naval Officer of South Quay at South Quay, of the Naval Officer of Rappahannock at Urbanna, of the Naval Officer of South Potowmack at Yeocomico or Alexandria, any thing in the "Act to amend the act intituled an act to amend the act intituled an act to restrict foreign vessels to certain ports within this commonwealth," notwithstanding; of the Naval Officer of Accomack at Drummond or Onancock, of the Naval Officer of Northampton at the courthouse thereof or at Cherrifton, and of the Naval Officer of York river at York town. They shall keep their offices at the places aforesaid respectively, but the Naval Officer of the district of Elizabeth river shall keep his office in the borough of Norfolk; and the Executive may grant a reasonable time for the removal of other officers hereafter to be appointed to the places herein before mentioned.

SECT. IV. Every Naval Officer may exercise his office by deputy at the place of his residence, in case of sickness or necessary absence, and the Naval Officer of South Potowmack may exercise his office by deputy at Alexandria or Yeocomico. Neither the said Naval Officers or their deputies shall directly or indirectly be concerned in trade.

SECT. V. Every Naval Officer at the time of receiving his commission shall enter into bond with good and sufficient security in such penalty as the Executive shall direct to the Governor in trust for the commonwealth for the due and faithful discharge of his duty according to law, and shall moreover take an oath of office to be administered by the Governor.

SECT. VI. Registers shall be granted by the Executive to citizens of the *United States* only, and for vessels built in the *United States* only, the Captain and Mates whereof have been citizens for at least one year preceding. The form of their register, and the mode of proving such citizenship, the time and place where the vessel was built, and her tonnage, may be prescribed by the Executive.

SECT. VII. The master or owner of every vessel coming into this commonwealth shall proceed with the same without delay to the port at which she intends to enter: And that within sixty hours after her arrival at moorings in such port, make to the Naval Officer of the district, a just and true port upon oath of the burthen, contents and loading of such vessel, with the particular marks and numbers of every cask or package whatsoever therein laden, to whom consigned to the best of his knowledge, and also where and in what port the same were laden and taken on board.

SECT. VIII. Whenever an entry is made the master, owner, or consignee shall produce on oath a fair and regular manifest expressing the several casks, parcels, packages, and other articles of merchandise whatsoever described or named, laden on board of his vessel, with the original invoices or a true copy thereof, the marks and numbers thereof, and to whom the same are consigned to the best of his knowledge, and he shall moreover on oath specify the tonnage of such vessel to the best of his knowledge, according to the carpenters tonnage.

SECT. IX. The Naval Officers or any person by them respectively appointed shall have full power and authority to go and enter on board any vessel, and from thence to bring on shore any articles whatsoever liable to duty if such duty be not paid, or bond with good and sufficient security given for the payment of the same within six months next after such entry, (which bond, if offered, the Naval Officer is hereby authorised and required to accept and take,) and such articles so brought on shore to secure and detain until due payment shall be made, or security given for the same as aforesaid. And if such payment or security be not made or given within two days from the time of such seizure, the Naval Officer is hereby empowered to sell at the end of six months from the date of such seizure the same or so much thereof as shall be sufficient to discharge the said duties, and five per centum for the charges of such seizure, and sale and storage. PROVIDED NEVERTHELESS, that notice shall be given of such seizure by advertising the same six weeks in the *Virginia Gazette*.

SECT. X. The permits to be granted for landing the whole of any cargo shall specify the several casks, parcels, packages, and other articles of merchandise, and the port or ports at which such goods, wares, or merchandises are to be delivered. The permits to be granted for landing the part of any cargo, shall likewise specify the whole of the cargo and tonnage, distinguishing what part hath been permitted to be landed elsewhere, and what may be permitted thereby to be landed. But no delivery whatsoever shall be made until the permits shall be exhibited to and countersigned by the Searcher of the port of delivery: And before the same shall be so countersigned, the Naval Officer shall make out an exact copy under his hand and seal, of each permit for the place of delivery, which copy shall be sealed up and committed to the Master or Commander of the vessel, and delivered to the Searcher before the permit shall be countersigned by him.

SECT. XI. Any master or skipper of a vessel intending to transport any goods, wares, or merchandises liable to a duty from one district to another shall obtain from the Naval Officer of the district from which they are to be transported a permit under the hand and seal of such officer, describing the vessel with the casks, packages and parcels therein laden, according to their respective marks and numbers, specifying the district into which they are to be transported, and certifying that all the duties thereon have been duly paid or secured to be paid, under which permit such master or skipper shall be entitled to deliver and unload his cargo at the place or places authorised by law. And the Naval Officer shall receive and take such proof of the duties having been paid on the said goods so to be transported as the nature of the case may admit. No vessel going out of this commonwealth shall pass the district in which her loading shall have been completed, until she shall have been duly cleared, and all duties to be accounted for on clearance shall be first satisfied according to law.

SECT. XII. Every master of a vessel when he makes his entry shall give bond with security in the penalty of one thousand pounds, that he will not depart this commonwealth when an embargo is laid during the continuance thereof; and every Naval Officer upon receipt of the order for such embargo shall forthwith give notice to the masters of vessels within his district, and no bond given respecting such embargo shall be adjudged, deemed, or taken, to be forfeited, unless notice be given as aforesaid.

SECT. XIII. Every Naval Officer at the time of granting a permit to load, shall take bond of the master of the vessel in the penalty of two hundred pounds, conditioned that he will not crop, cut away the bulge, draw the staves, or otherwise abuse or injure any tobacco cask freighted in his vessel, or cause or suffer the same to be done with his knowledge, privity, or procurement, without the consent of the freighter or freighters.

SECT. XIV. No duties shall be payable on any imported articles being the property of this commonwealth, the *United States*, or any of them, nor on any articles imported directly by water in vessels belonging wholly to citizens of the *United States* which shall be proved to be of the growth or manufacture of the state from which they shall be imported, except rum and unrefined sugar, which articles shall be subject to the same duties as are by law imposed on the same articles imported from foreign countries.

SECT. XV. Before any permit shall be granted for delivery, six pence per ton shall be paid, or secured to be paid, for every vessel which shall enter, to be appropriated to the light house, and one shilling for every seaman or mariner, and apprentice on board, to be appropriated to the marine hospital. But for every vessel built in the *United States*, the Captain and Mates whereof have been citizens for at least one year preceding, and *bona fide* belonging to a citizen or citizens of the *United States*, and not exceeding one hundred tons, the tonnage on such vessels shall not exceed six pence per ton in addition to the tonnage imposed for the erection and support of a light house. But all vessels not exceeding one hundred tons

burthen, and wholly owned by a citizen or citizens of the *United States* or any of them, and navigated according to law, who shall be employed solely in carrying off *American coal*, shall be exempted from all tonnage except the six pence per ton for the support of the light house.

SECT. XVI. No coasting vessel of fifty tons or under shall be compelled to take a pilot, or be subject to any penalty for refusal.

SECT. XVII. Nothing herein contained shall be construed to affect, or be intended to affect, the rights and obligations arising under the act of the General Assembly, intituled "An act to approve, confirm, and ratify the compact made by certain Commissioners appointed by the General Assembly of the State of Maryland and Commissioners appointed by this commonwealth, &c."

SECT. XVIII. The master or owner of any vessel coming into this commonwealth and laden with goods, wares, or merchandizes, a part whereof only are to be delivered in this commonwealth, shall be admitted to enter and deliver the same on paying, or securing to be paid, as the case may be, the duties thereon together with such proportion of the tonnage, as will correspond with the proportion which the bulk of such part bears to the bulk of the whole cargo; such proportion of the tonnage to be ascertained by the persons to be appointed by the Naval Officer, who shall act upon oath, and report their opinion to such officer. And no other part of the said cargo liable to duty shall be unladen or put on shore.

SECT. XIX. No owner, master, or commander of any vessel shall sell or permit to be sold on board of the same in retail any goods, wares, or merchandizes liable to a duty.

SECT. XX. No person shall be required to give account upon oath of the true contents of any pipe or lesser cask of wine, or hogshead or lesser cask of spirits beer, ale, porter, cyder, or molasses imported, but shall have liberty to enter a pipe or hogshead as aforesaid at one hundred and ten gallons, and all lesser casks after the same proportion.

SECT. XXI. When any Naval Officer or Searcher shall have good reason to suspect that any package or parcel of goods contains any article that has not been entered, it shall be lawful for such officer to open and examine in company with Justice of the peace such package or parcel.

SECT. XXII. It shall be lawful for the Naval Officers or Searchers having good cause to suspect that any goods, wares, or merchandizes on which duties have not been paid, are stored and secreted in any house, to apply to a Justice of the Peace, or Alderman of a corporation for a warrant, which warrant shall not be granted but on information on oath, and being accompanied with a constable, break open in the day time such suspected house when it may be necessary, as any goods so found, on which the duties have not been paid or secured to be paid may be seized and carried away.

SECT. XXIII. No goods, wares, or merchandizes whatsoever shall be delivered or unladen from any vessel importing the same, unless it be between sunset and sunrise, unless compelled by ice, tempest or other stress of weather, in which case the master of such vessel shall enter a protest with some Justice of the Peace within twenty four hours, and give immediate notice thereof to the Naval Officer or Searcher.

SECT. XXIV. For all duties except those arising from seamen or mariners the Naval Officer may take bonds payable at the end of six months with one or more securities,

SECT. XXV. The duties arising on tonnage shall either be paid down to the Naval Officer at the time of entering any vessel, or the person entering any vessel shall deposit with the Naval Officer such goods as shall in the opinion of such Naval Officer be sufficient to secure the payment thereof at the end of one month and if the said goods be not redeemed at the expiration of the time aforesaid, the Naval Officer shall sell the same, or so much thereof as shall be sufficient to pay the said tonnage and the expence attending the sale.

SECT. XXVI. The several Naval Officers shall pay quarterly into the treasury all monies coming into their hands by virtue of this act.

SECT. XXVII. All bonds taken by the Naval Officers for duties imposed at the time of entry shall be by them retained in their respective offices until the same shall become due; and all bonds so retained and remaining unpaid at the succeeding quarter shall be by the Naval Officers transmitted to the Solicitor General, in which two receipts shall be given by the Solicitor to the Naval Officer transmitting the same, who shall deposit with the Auditor of Public Accounts one of such receipts and a list of the bonds so transmitted to the Solicitor, in order that the Auditor may charge the Solicitor with all such bonds.

SECT. XXVIII. At any of the four terms of the General Courts, or at the Court of the county of *Henrico*, after the transmission of such bond, the Solicitor may move without notice for judgment against the principal and securities of such bond; and the said Courts are hereby authorised to give judgments for the sum due, and five per centum interest, and costs; and on the executions to be issued thereupon the Clerk shall indorse "No security to be taken."

SECT. XXIX. And so soon as the Solicitor shall receive all or any part of sums due on such bonds or executions, he shall immediately pay the same into the treasury, with a deduction of one per centum to be paid out of the money arising from the interest on such bonds, and the receipts obtained therefor shall entitle him to a credit with the Auditor.

SECT. XXX. It shall be the duty of the Naval Officers to keep registers of all district permits by them granted.

SECT. XXXI. Whenever any vessel shall come into any port of this commonwealth in distress, it shall be lawful for the Naval Officer of the district to permit such part of her cargo to be sold as may be necessary for repairing any damage which she may have sustained, and thereafter the said vessel shall be at liberty to depart for any port or place without this commonwealth, without paying any of the duties or tonnage, or being obliged to comply with any of the rules and regulations which it would have been necessary to have paid or complied with in case her cargo had been destined to be delivered at some port within this commonwealth except the tonnage appropriated to the support of a light house. Double tonnage shall be paid for all omitted tonnage before a vessel shall be permitted to clear or

SECT. XXXII. The salaries of the several Naval Officers shall be in lieu of all commissions and fees, as follows; the salary for the Naval Officer of Elizabeth river district four hundred pounds: For the Naval Officer of James river district two hundred pounds: For the Naval Officer of South Quay district fifty pounds: For the Naval Officer of York river district one hundred and fifty pounds: For the Naval Officer of Rappahannock district two hundred pounds: For the Naval Officer of Potowmack district two hundred and fifty pounds: For the Naval Officer of Accomack district fifty pounds: And for the Naval Officer of Northampton district fifty pounds: And moreover they shall be allowed a commission of one per centum on all monies by them respectively received and paid into the treasury by virtue of their office; and also a commission of three fourths of one per centum on the amount of all bonds for duties by them taken.

SECT. XXXIII. THE several Naval Officers and Searchers shall be subject, the former to be suspended, and the latter to be suspended and displaced by the Executive for misconduct or neglect of duty. The Naval Officers and Searchers shall in the mode of keeping their offices and books, and in the forms of making out their permits, certificates, returns, and other instruments of writing, obey such instructions as they may from time to time receive from the Executive.

SECT. XXXIV. AND any member of the Executive may at any time, with the approbation of the Board, visit the several places where the naval offices are kept, or Searchers appointed; and shall have powers to inspect their offices, books, and public papers, and to suspend any of the said officers for the space of one month, appointing another person to do the duties of the office in the meantime. And such member of the Executive during the time of performing such visit shall be entitled to his salary, and shall moreover be allowed fifteen shillings per day for his travelling expences.

SECT. XXXV. EACH Naval Officer shall keep a seal of office of a form and device to be approved of by the Executive, and shall deposit with each of the Searchers of his district an exact impression thereof.

SECT. XXXVI. THE clerk of the Council shall, before he delivers any register, demand and receive fifteen shillings if the vessel be under one hundred tons, and thirty shillings if the vessel be of greater burthen, which money after a deduction of two and a half per centum, as a commission to the said clerk, shall by him be quarterly paid into the treasury.

SECT. XXXVII. SEARCHERS shall be appointed at such places as the Executive shall think proper, and be commissioned by the Governor, and shall at the court of the county or corporation in which he resides next after the commencement of this act, or after his appointment, as the case may be, take an oath, and enter into bond with sufficient security in the sum of one thousand pounds payable to the Governor, for the time being, to the use of the commonwealth, for the faithful performance of his duty.

SECT. XXXVIII. IT shall be the duty of the Searchers to attend to the delivery and unloading of all goods, wares and merchandises at the places for which they may be appointed, and to go on board any vessel coming to such place, as often as may be requisite; they shall also, whenever they shall have good reason to suspect that the tonnage of any vessel has not been truly entered, measure the same according to the rules prescribed by law, and if it shall appear from such measurement that a deficient entry has been made they shall certify such deficiency to the Naval Officer of the district, and a copy of such certificate shall be transmitted quarterly by the Searchers to the Auditor of Public Accounts. The Searchers shall also register in books to be kept for that purpose, descriptions and lists of all vessels and of their cargoes delivered or unladen at the places for which they are appointed respectively, according to the permits granted by the Naval Officer, and shall quarterly transmit the counter part of each permit, furnished them by the Naval Officer to the Auditor of Public Accounts.

SECT. XXXIX. IT shall be lawful for the Executive to appoint as many assistants to the several Searchers as shall appear necessary.

SECT. XL. ALL claims by mariners for wages shall be tried on motion in a summary way, by a jury summoned instantly in the court of any county, or a corporation within any county, where the vessel may lie; and it shall be lawful for the clerk thereof to issue process summoning the master to answer such claims, and to demand special bail from the party served. All executions issued upon judgments obtained for wages shall be irrepleviable and no appeal allowed.

SECT. XLI. EVERY Naval Officer who shall not keep his office at the place herein fixed for the same, shall forfeit his office.

SECT. XLII. THE master or owner of any vessel coming into this commonwealth failing to make a just and true report according to law, shall forfeit two hundred pounds, one half to the use of the commonwealth, and the other half to the person suing for the same, recoverable by action of debt in any court of record, and in all cases the defendant shall be held to special bail.

SECT. XLIII. IF any goods, wares, or merchandises liable to a duty shall be landed or put on shore, or if bulk be broken before due entry be made of the vessel importing the same, such goods, wares or merchandise so landed or put on shore, shall, together with the said vessel, her rigging, tackle, apparel and furniture, be forfeited and condemned in the Court of Admiralty, one half to the use of the commonwealth, and the other half to the use of the libellant. *Provided*, That the Judges of the Court of Admiralty shall have power to direct any prosecution hereafter to be commenced against any vessel in the said Court of Admiralty to be discontinued, where they shall be satisfied that no fraud was intended in failing to enter any goods, but that the same happened through mistake or ignorance in any captain or master in making his entry.

SECT. XLIV. ALL goods, wares, or merchandises subject to a duty, which shall, after entry, be unladen or put on shore before the obtaining, or contrary to the tenor of the permit, shall be forfeited and condemned in the Court of Admiralty, one half to the use of the commonwealth, and the other half to the use of the libellant.

SECT. XLV. EVERY master or commander of a vessel failing to make a just and true return of all seamen and mariners, as required by law, shall forfeit

five pounds for each seaman or mariner not returned, recoverable in any court of record, on motion, with ten days previous notice, one half to the use of the commonwealth, and the other half to the use of the person moving for the same.

SECT. XLVI. EVERY Seavener failing to register the permits and tokens of the same, quarterly, to the Auditor of Public Accounts, according to the directions of this act, shall forfeit two hundred pounds to the use of the commonwealth, to be recovered by the Solicitor, by motion, with ten days previous notice, in any court of record.

SECT. XLVII. IF any pipe, hoghead, or other cask shall exceed the quantity entered fifteen per centum or more, every such pipe, hoghead, or other cask shall, with its contents, be liable to be condemned in the Court of Admiralty, one half to the use of the commonwealth, the other half to the libellant.

SECT. XLVIII. IF any package or parcel of goods contains any article that has not been entered, or a greater quantity of any article than has been entered, every article so omitted, with a fraudulent intention, shall be forfeited, and condemned in the Court of Admiralty, one half to the use of the commonwealth, the other half to the libellant.

SECT. XLIX. IF any goods, wares, or merchandises liable to a duty, are transported from one district to another, shall be delivered or unladen, or shall be found on board of any vessel without having obtained a distinct permit according to the directions of this act, the same shall, together with the vessel, rigging, tackle, apparel and furniture, be forfeited and condemned in the Court of Admiralty, one half to the use of the commonwealth, the other half to the libellant.

SECT. L. IF any officer of the customs, or officer of the state boats, shall meet with obstruction in the execution of his office, he may impress persons or vessels to his assistance, and the person or persons so summoned and assisting shall be allowed one half the sum given by law to the officer making seizure; but every person failing to render the assistance required, without reasonable excuse, shall forfeit and pay the sum of ten pounds, to be recovered, on motion of the officer, in the court of the county where the party resides, to the use of the commonwealth, PROVIDED, ten days previous notice be given of such motion.

SECT. LI. ANY Naval Officer or Solicitor failing to pay the money into the treasury agreeably to this act, shall forfeit and pay five hundred pounds for every such failure. And any Naval Officer failing to deliver the bonds to the Solicitor as required by this act, shall forfeit and pay five hundred pounds for every such failure; both of which penalties shall be recoverable, by an action of debt, in the name of the commonwealth, in any court of record.

SECT. LII. IF any goods, wares or merchandises shall be delivered or unladen from any vessel importing the same, unless it be between sun rise and sun set, the same shall be forfeited, and condemned in the Court of Admiralty, one half to the use of the commonwealth, the other half to the libellant.

SECT. LIII. IF any Naval Officer, at the time of granting a permit, shall fail to take bond of the master of the vessel, in the sum of two hundred pounds, conditioned as directed by this act, he shall forfeit and pay the sum of two hundred pounds, to be recovered, by information, in any court of record, and applied, one moiety to the use of the commonwealth, and the other to the informer.

SECT. LIV. NO vessel or cargo shall be liable to any loss or damage for any mistake or error which may happen by means of any Naval Officer, Searcher, or assistant.

SECT. LV. IF any owner, master or commander of a vessel shall sell or permit to be sold on board of the same in retail, fancy goods, wares or merchandises liable to a duty, he shall forfeit and pay the sum of fifty pounds for every such offence; one half to the use of the commonwealth, the other half to the informer, recoverable, by motion, in any court of record, upon ten days previous notice.

SECT. LVI. EVERY Naval Officer shall set up, or cause to be set up, in the most public place in his office, and constantly kept there, three fair written tables; one in the English, one in the French, and one other in the Dutch language, shewing plainly and clearly the duties payable on all goods imported, and tonnage payable on vessels.

SECT. LVII. NO vessels shall be cleared out unless the master thereof shall produce to the Naval Officer a manifest of the cargo, and make oath (or affirm if a quaker) or of any profession in which taking of oaths is not allowed) that the commodities to be exported have been inspected, stamped and branded according to law.

SECT. LVIII. EVERY Naval Officer shall enter in a book to be kept for that purpose, a fair list of the entries, and in one other book a fair list of the clearances of all vessels with their cargoes, and once in three months transmit a copy thereof to the Governor, to whom it shall be delivered by the master.

SECT. LIX. THE bonds directed to be taken by this act shall be made payable to the Governor, for the time being, and his successors, for the use of the commonwealth.

SECT. LX. DRAWBACKS shall be under the limitations and restrictions herein after mentioned: No drawbacks shall be allowed for any merchandise liable to duty, exported out of this state, unless exported within ninety days after importation thereof by the original importer, and by water, and unless exported in the original cask or package in which they were imported unbroken, and in vessels belonging to a citizen or citizens of the United States, or in the vessel in which they were originally imported; and such importer desiring to export such merchandise shall deliver to the Naval Officer of the port from whence the same is intended to be exported, a fair manifest, certified by the Searcher, to express truly the marks and numbers of the pipes, hogheads, trunks, casks, bales, packages, or other things containing any such durable articles, and a full and particular list of all the articles thereof, with the cost according to the account by which the duties thereon were ascertained, and shall make oath, or affirmation, to be endorsed on such manifest, containing also a description of the vessel in which no loading or unloading is to be done, and the time when.

In they were imported, and the time of importation, and that it is a true list of all the dutiable merchandise intended to be re-exported in the vessel mentioned in the permit, and that the merchandise mentioned in such manifest was duly entered, and the duties thereon paid, or secured to be paid; according to which manifest shall be transmitted by the Naval Officer to the Auditor of Public Accounts; and such importer shall also give bond with sufficient security that the said merchandise shall be exported out of the commonwealth without fraud or deceit, which bond shall be transmitted to the Solicitor by such Naval Officer: And the master or skipper of the vessel receiving such merchandise shall take a clearance thereof, and make oath, or affirmation, that he will not land, or permit to be landed, such merchandise in any part of this state, but will deliver the same, dangers of navigation only excepted, at the place mentioned in the clearance. And if such exporter will, within twelve months after the date of such bond, produce a certificate from a Naval Officer, Notary Public Chief Magistrate of any other state or country, that such merchandise was duly entered in such state or country, or shall make it appear, within twelve months from the time such goods may be shipped, by indifferent testimony, to the satisfaction of any two Judges of the Court of Admiralty, in or out of session, that the vessel in which such goods, wares and merchandise may have been exported, and the cargo shall have been lost by tempest or other accident, in such cases the exporter shall be entitled to receive from the treasury the duties which have been paid on such re-exported goods, wares or merchandise, with a deduction of one per centum paid to the Solicitor as aforesaid, or to have the bond securing such duties wholly cancelled, or a credit endorsed thereon *pro tanto*, as the case may be, where such bond shall not have been paid. PROVIDED that no drawback shall be allowed unless demanded within twelve months from the time of the exportation of any such goods, wares or merchandise unless where the cargo shall have been lost by tempest or accident, nor on any sum less than the value of fifty pounds. AND PROVIDED that no drawback shall be allowed except for goods which shall have been actually landed, and afterwards re-shipped for exportation, salt excepted.

SECT. LXI. IF any officer shall be sued or prosecuted for any thing done by virtue of the powers hereby given, he may plead the general issue, and give this act in evidence, and if in such suit the plaintiff be non-suited or judgment pass against him, the defendant shall recover double costs.

SECT. LXII. THE act intituled "An act to amend the several acts of Assembly concerning Naval Officers and the collection of the duties," except the twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, and thirty-second clauses thereof concerning importations of goods by land, and all other acts coming within the purview of this act, except the act, intituled, "An act to impose certain duties," shall be and they are hereby repealed. But any forfeiture or penalty arising under any act hereby repealed, may nevertheless be prosecuted in the same manner as if this act had never been made.

SECT. LXIII. THIS act shall commence and be in force on the twentieth day of January, which shall be in the year one thousand seven hundred and eighty-eight.

C H A P. V.

An ACT providing a SINKING FUND for the GRADUAL REDEMPTION of the PUBLIC DEBT.

Passed the 14th of DECEMBER, 1787.

SECTION I. WHEREAS it will greatly tend to the establishment of public credit, that some part of the revenue of the state shall be applied to the gradual payment of part of the principal of the public debts; and it appearing to the present General Assembly that some of the public funds, besides making good the several appropriations thereon charged, yield a surplus which may be advantageously applied in redeeming certain public securities of this state, and of the United States; and by drawing the interest arising on such securities so redeemed as carry interest, and again applying the interest so drawn to the further redemption of like securities, and so perpetually continuing the application thereof, a sinking fund may be established which will in a few years redeem a great proportion of the public debt, and enable government greatly to reduce the present amount of taxes;

SECT. II. BE it therefore enacted by the General Assembly, That there shall be a fund called and known by the name of the Sinking Fund; the surplus arising from other funds not particularly appropriated, and such unappropriated money as may, from time to time, be in the public treasury which shall be by law directed to the support of such fund, and such other occasional aids as the General Assembly may direct shall constitute the said sinking fund. The said fund shall be conducted and managed and the money therein applied, agreeable to the purposes of this act, in such manner as the Governor with the advice of Council shall direct.

SECT. III. ALL military certificates, and other public securities which carry an annual interest, and which have been collected in payment of taxes, or which may hereafter be collected in payment of taxes, shall be placed in the sinking fund; and the Governor with the advice aforesaid, shall, on behalf of the public, be entitled to warrants for the interest on such certificates now due, or hereafter to become due, and to transfer the said warrants, or to receive the money arising from the fund by law appropriated to the redemption thereof, in like manner as if the same were now held by the persons in whose favor the said securities originally issued.

SECT. IV. AND WHEREAS by an act passed at the last session of Assembly an additional duty was imposed of six shillings per hogshead on tobacco

exported, and the money arising therefrom appropriated to the payment of a requisition of Congress, which requisition hath by a subsequent act of Congress been repealed, and it therefore becomes necessary to make a new appropriation of the money arising from the said duty: Be it therefore enacted, that all the net revenue which may arise from the said additional duty of six shillings per hogshead on tobacco shall be applied in aid of the sinking fund. The Governor with advice of Council is hereby authorized and required to direct the sale of the public tobacco which hath been received in payment of taxes, to be made either by public or private sale, as to him with the advice aforesaid may seem most for the public benefit, and either for specie or such public securities as may be deemed most advantageous for the public, having at the same time due regard to the application of the money or public securities arising from the sale of such tobacco agreeable to the appropriations made to specific purposes; and if there shall be any surplus arising from the sales thereof after making good such appropriations the same shall be carried to the aid of the sinking fund.

SECT. V. ALL the money and other aids now appropriated to the sinking fund, or which may hereafter be appropriated to the same, shall be applied to the redemption of such public securities of this state, or of the United States, as may in the opinion of the Executive be most for the public benefit, and will contribute in the greatest degree to the increase of the said fund, for which purpose they are hereby authorized and required to invest the money or warrants arising from the interest of the several securities so redeemed, in like manner, to the redemption of the like or other securities so as to render the said sinking fund productive in a compound ratio during its continuance.

SECT. VI. ALL the money in the said fund or which may hereafter be appropriated to the same shall be applied in manner above mentioned to the redemption of the public securities, and no money shall ever be drawn from the same for any other purpose by construction of any general words in any act of the General Assembly, nor by any authority except some act of Assembly wherein the application of such money shall be expressly directed and the sinking fund specially named.

SECT. VII. THE Treasurer shall cause to be registered, in a book to be kept for that purpose, all the public securities and certificates which shall come into his office by virtue of this act. An account of which, as well as a fair state of the fund, shall be rendered annually to the General Assembly.

SECT. VIII. SO much of all and every act or acts as comes within the purview and meaning of this act is hereby repealed.

C H A P. VI.

An ACT declaring TOBACCO receivable in payment of certain TAXES for the year one thousand seven hundred and eighty seven.

Passed DECEMBER the 1st, 1787.

PREAMBLE. WHEREAS it is represented to this present General Assembly, that it will be a great relief and ease to the citizens of this commonwealth to enable them to discharge the taxes due for the year one thousand seven hundred and eighty seven under the act intituled "An act to amend and reduce the several acts of Assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue into one act," with notes for inspected tobacco; and that this ease may be given to the people without lessening the public revenue, by fixing an equitable price on the tobacco, having regard to the selling price thereof at each ware-house within this state:

SECT. I. BE it therefore enacted, that it shall be lawful for any person chargeable with the taxes aforesaid to discharge the same in inspectors receipts or notes for good merchantable crop tobacco not less than nine hundred and fifty pounds nett weight, and not inspected more than one year when offered in payment at the rates hereafter mentioned: At Page's in Hanover town, Byrd's Shockoe, Rocket's, Rocky Ridge, Manchester, Warwick, and Osborne's at thirty shillings per hundred; at all the ware-houses in and about Petersburg on Appomattox, at twenty nine shillings per hundred; at all the ware-houses on York and Mattaponi rivers and their branches, from Newcastle to York town inclusive, at the College landing, Hampton, and Deacon's Neck, and at all the warehouses from Falmouth to Roy's and Gibson's on Rappahannock inclusive, and at all the ware-houses from the falls of Potowmack to Aquia inclusive, at twenty eight shillings per hundred; at all the warehouses on the different rivers, creeks, or bays within this commonwealth not herein enumerated at twenty six shillings per hundred, except the warehouses hereafter mentioned, at which tobacco shall be received at the following rates; to wit, Rivanna at twenty eight shillings per hundred; and at Lynch's at twenty six shillings per hundred; at Crow's ferry and Cresap's at twenty two shillings per hundred; or in transfer receipts or notes for tobacco at the rate of one hundred and ten pounds for one hundred pounds of crop tobacco at any public inspection within this commonwealth. That all tobaccoes received under this act at any of the ware-houses within the district commonly called and known by the name of the Kentucky district, which tobacco shall be rated at twenty three shillings per hundred, shall be paid to James Speed, John Cowan, William Montgomery, senior, Richard Glough, Anderson, Isaac Shelby, Gabriel Madison, and William Kennedy, gentlemen, who, or any four of them, are hereby appointed Commissioners to receive the same to be by them sold for cash, or public securities, and the proceeds to be paid by the said Commissioners into the public treasury.

SECT. II. AND be it enacted, That when any sheriff or collector shall have failed to account with the said commissioners within the time prescribed by law for the payment of taxes into the public treasury, that then the supreme court of the said district shall be authorised, upon motion of the said commissioners, to grant judgment and issue execution against such collector and his securities, provided they shall have ten days previous notice thereof.

SECT. III. *AND be it further enacted,* That the sheriffs and collectors, except those of the district of Kentucky, shall give a receipt to each person from whom they collect the taxes, specifying in what the said taxes were paid; and shall monthly make returns, on oath, to the courts of their respective counties, of their collection, inserting in distinct columns of whom received, the amount of several articles paid, viz. specie, facilities, warrants, crop and transfer tobacco, with the marks, numbers, weights, and warehouses, and shall at the time of making such return make oath that he hath not directly or indirectly, sold, bartered or exchanged any article to or with the person or persons from whom he hath collected taxes, except what was necessarily given in change. And in case any sheriff or collector shall fail making such return, he shall forfeit for every failure, the sum of fifty pounds, to be recovered by motion, on ten days previous notice being given, which the attorney for the commonwealth in the county where the failure shall be, is hereby required to make and prosecute, and the money so recovered shall be collected and transmitted by the coroner of the county, to the treasury to be applied to public purposes; and any sheriff being convicted of making a false return to the county court shall be liable to the fine penalty, and shall moreover be forever thereafter disqualified from holding the office of sheriff or collector in this commonwealth. The clerks of the several courts are hereby required and directed to fix up fair copies of the sheriffs or collectors monthly returns in some conspicuous part of their respective court-houses, for public inspection on the next court day after such returnus are made; they shall also file a copy thereof and deliver another attested copy to the sheriff or collector, without which being first produced to the auditor of public accounts no sheriff or collector, or any person for him, shall be permitted to make any payment on account of his collection into the treasury. Any clerk neglecting to perform the several duties hereby required of him, shall forfeit and pay the sum of twenty five pounds for every such neglect; to be recovered and applied in the same manner as the forfeitures inflicted by this act on delinquent sheriffs and collectors.

C H A P. VII.

An ACT directing the Mode of proceeding under certain Executions.

[Passed the 4th of JANUARY, 1787.]

SECTION I. WHEREAS it is represented to the General Assembly, that great injury has been sustained both by the debtors and creditors within this commonwealth, by the operation of the present laws concerning executions: For remedy whereof,

SEC. II. BE it enacted by the General Assembly, That so much of all and every act and acts of Assembly as empowers the sheriffs or other officer levying an execution on the goods or other estate of the debtor, to restore such goods or estate so taken, to the debtor, on his entering into bond with security to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same, to such creditor within three months, shall be, and the same is hereby repealed.

SECT. III. *AND be it further enacted,* That on all executions hereafter issued, the sheriff or other officer having published notice of the time and place of such sale, at the door of the courthouse of his county on some court day, and at some public place near the residence of the debtor, at least ten days before such sale, shall proceed to sell by auction, the goods or other estate taken under such execution, or so much thereof as shall be sufficient to satisfy the judgment or decree, as the case may be, for the best price that can be got for the same: *Provided always,* that if such goods or other estate cannot be sold for three fourths of their value at the least, in the opinion of the persons hereafter directed to be appointed for that purpose, it shall and may be lawful for the debtor or debtors, or any of them, to enter into bond with sufficient securities to be approved by the persons aforesaid, to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same, to such creditor, within twelve months. And on such bond being given, the sheriff or other officer shall restore to such debtor the goods or estate so taken. And when no such bond and security shall be offered by the debtor, or any person for him, and the goods or other estate taken in execution, cannot in the opinion of the persons aforesaid, be sold for three fourths of their value at the least, the sheriff or other officer shall set up and sell the same for money or tobacco, as the case may be, to be paid at the end of twelve months, and shall take bond of the buyer or buyers, with one or more sufficient securities to pay the same accordingly, with interest, to such creditor.

SECT. IV. *AND be it further enacted,* That all and every bond or bonds so taken in pursuance of this act, shall mention that the same was or were entered into for goods or other estate taken in execution and returned to the debtor, or sold to the obligor, as the case may be, and shall have the force of judgments, and also be assignable. And such sheriff or other officer taking such bond, shall deliver the same to the creditor or his attorney, or return it to the office of the clerk of the court from whence such execution issued, there to be safely kept until demanded by the creditor or his attorney; and if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful for the creditor or his assignee to lodge the same, with an affidavit, that the money or tobacco for which such bond was given, or part thereof, is still due, with the clerk of the court from whence the execution issued, and such clerk shall and may

thereupon issue an execution for so much as shall appear from the said bond and affidavit to be still due; and upon such execution, the sheriff or other officer shall not take any securities for the payment of the money or tobacco at a further day, but shall levy the same immediately, and sell the property on which the execution shall be so levied for the best price that can be had for the same. *Provided,* that if on return of such execution the debtor can prove the payment of the money for which such execution was levied, either to the assignee or the original obligee, before notice of such assignment, as the case may be, it shall and may be lawful for the court to quash such execution or give such other judgment therein as to them shall seem right, and the person in whose name such execution issued, shall moreover be liable to the action of such debtor for damages. And for the better directions of such sheriff or other officer, the clerk shall endorse upon the back of such execution that no security is to be taken. *Provided,* that nothing in this act shall be construed to extend to any judgment or execution not exceeding the sum of twenty-five shillings, or to any execution against a sheriff, coroner, public collector, or other person legally authorized to receive any part of the public revenue, or to any execution against any such officer for money received by him under an execution or other process; nor to attorneys receiving the money of their clients; nor to securities under the act, intituled "An act to empower securities to recover damages in a summary way."

SECT. V. *AND be it further enacted,* That the court of every county and corporation within this commonwealth, shall appoint nine persons to act as judges of the value of the property and the sufficiency of the securities that may be offered under this act, and no sale under execution shall be made but in the presence of at least three of the said persons. *Provided always,* that in any case where the creditor, his agent or attorney, shall be dissatisfied with the sufficiency of the security admitted by such valuers, it shall be lawful for such creditor to appeal to the next court to be held for the county or corporation, thereupon, giving notice thereof to the debtor or his attorney; and if such court shall be of opinion that the security so admitted was insufficient, the execution upon which such security was admitted, shall be deemed and taken as a lien upon the goods and chattels of such debtor, and shall not be discharged but upon payment of the debt and costs, or render of other sufficient security satisfactory to the court. And moreover the bond and security given by such debtor shall remain valid until such counter security be given. There shall be paid to each of the valuers appointed by virtue of this act, four shillings for each days attendance at any sale, to be taxed in the bill of costs where there is but one execution, and where there shall be more than one execution to be taxed in the bill of costs on each execution, proportioned to the amount thereof; such attendance not being taxed for more than three valuers in any case. And where any property shall be returned to the debtor or sold on twelve months credit under this act, such persons shall give the sheriff or other officer a certificate that in their opinions such property would not sell for three fourths of its real value, and that the security so taken were sufficient: And such certificate shall be returned by the sheriff with the execution, and shall be a full indemnification for him therein. And such sheriff or officer shall be allowed thirty pounds of tobacco for taking such bond, and no more, except such allowance for keeping and removing such property as shall be at the time of entering into such bond certified by the persons aforesaid, to be reasonable. Every person appointed by a court to judge of the value of property taken in execution, and of the sufficiency of securities offered agreeably to the directions of this act, shall, before he proceeds to act under such appointment, take an oath before the court of the county or corporation, or some magistrate thereof, that he will truly and impartially execute the trust reposed in him by this act.

SECT. VI. *AND be it further enacted,* That nothing in this act shall be construed to extend to any proceedings that may be had in consequence of any distress made or to be made for any rent reserved and due, or which may hereafter become due, upon any demise, lease, or contract whatsoever. Where any writ of *Capias ad Satisfaciendum*, has been or shall be served on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer serving the same, property to the value of the debt and costs for which such execution has issued, or may hereafter issue, which property the said sheriff or other officer shall receive and proceed to sell in like manner as is herein directed in the case of goods taken in execution upon a writ of *Fieri Facias*, and shall thereupon discharge such debtor out of custody.

SECT. VII. *AND be it further enacted,* That where any bond directed or permitted to be given by this act, shall be assigned, an execution issued thereon, against the original obligor or obligors, and on such execution there shall be a return by the sheriff or other officer that there were no goods, or not sufficient goods of the obligor or obligors, to make the debt and costs, it shall be lawful for the clerk, who issued such execution, to issue a second execution against the assignor or assignors of such bond, for the debt mentioned therein, or such part thereof as shall appear to be still due; on which execution there shall be similar proceedings to those in an execution against the original obligors.

SECT. VIII. *AND be it further enacted,* That the valuers shall be amenable to their respective county or corporation courts, and at the discretion of such courts may be deprived of their office for neglect of duty or malfeasance therein; and upon the death, resignation, or removal from office of any such valuer, the vacancy shall be supplied by new appointment of the county or corporation court in which it shall happen. When the sheriff shall under any execution have fixed the time and place for the sale of the property taken under such execution, he shall summon three of the commissioners appointed under this act to value the property and ascertain the sufficiency of securities, to attend at the time and place of such sale. If only two of the said commissioners attend, they shall, after the hour of two o'clock, choose one of the by-standers to assist them in such valuation;

if only one of the said commissioners shall attend, he shall at the same time and in the same manner choose one of the by-standers, and they shall together choose a third to value such property as aforesaid; if neither of the said commissioners shall attend, the sale shall be postponed until another day, which shall not be longer than ten days, when the same proceedings shall be had as are directed to take place on the day first appointed for the sale. The sheriff shall administer the same oaths to the persons chosen by the commissioners as are directed by this act to be administered to the commissioners by the county or corporation courts.

SECT. IX. *AND be it farther enacted,* That all and every other act and acts, and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

SECT. X. THIS act shall continue in force for three years, and no longer.

C H A P. VIII.

An ACT concerning the CONVENTION to be held in JUNE next.

[Passed the 12th of DECEMBER, 1787.]

SECTION I. **W**HÈREAS it is provided by a resolution of the twenty-fifth day of October last, that the proceedings of the Federal Convention be submitted to a Convention of the people for their full and free investigation, discussion and decision; but no provision hath been mad. for ascertaining the privileges, or defraying the expences of the members of the said Convention, during their session, and travelling to and from the same,

SECT. II. *BE it therefore enacted by the General Assembly,* That the members of the said state Convention, chosen in conformity to the said resolution of the twenty-fifth day of October last, shall have, possess, and enjoy, in the most full and ample manner, all and every the privilege and privileges which members elected to, and attending on, the General Assembly, are entitled to. And moreover shall be allowed the same pay for travelling to, attending on, and returning from, the said Convention, as is allowed to members of the General Assembly for travelling to, attending on, and returning from the same.

SECT. III. *BE it further enacted,* That the said Convention shall be, and they are hereby empowered to make such reasonable allowances to the officers of the said Convention for their services as shall be by the said Convention deemed necessary. **AND WHEREAS** it is essential to the safety and happiness of the people of this and other states in the union, that the most friendly sentiments towards each other should be cherished, and the greatest unanimity should prevail at all times, but more particularly during the deliberations concerning the great and important change of government which hath been proposed by the Federal Convention, and it is necessary to make provision for the payment of such reasonable expenses as may be incurred, in case the Convention to meet in this state on the first Monday in June next, should deem it necessary to hold any communications with any of the sister states or the Conventions thereof which may be then met, or should in any other manner incur any expence in collecting the sentiments of the union respecting the proposed Federal Constitution, in such manner as to keep up that friendly intercourse and preserve that unanimity respecting any great change of government, which it is the duty and wish of this legislature to promote and cherish:

SECT. IV. *BE it therefore enacted,* That a sum of money not exceeding eight thousand pounds shall be referred in the treasury subject to the order and disposal of the Convention appointed to meet in the city of Richmond on the first Monday in June next, for defraying the expences of the members thereof, or any other expenses as before mentioned, and that such money shall be made good from the funds now appropriated, or which may hereafter be appropriated, to the support of civil government; and provided the said fund should by any means prove deficient, then such deficiency shall be made good from any unappropriated money in the treasury.

C H A P. IX.

An ACT to amend the Act, intituled "An Act for establishing a High Court of Chancery."

[Passed the 2d of JANUARY, 1788.]

SECT. I. **W**HÈREAS the act, intituled "An act for establishing a High Court of Chancery," requires amendment, because justice is greatly delayed by the tedious forms of proceedings, suitors are therefore obliged to waste much time and expence, to the impoverishment of themselves and the state, and decrees when obtained are with difficulty carried into execution: For remedying these mischiefs,

SECT. II. *BE it enacted,* That from and after the passing of this act, the

following rules and alterations, explanations and amendments to the said recd act, shall be observed in all cases to which they apply. Whenever any suit in chancery is returned executed, the plaintiff shall within three months thereafter file his bill, and if he fails to do so within that period, the suit shall *ipso facto* dismissed, with costs. If the defendant does not file his answer within three months after the plaintiff shall have filed his bill, having also been served with the subpoena at least three months before the said time for filing his answer, the plaintiff may proceed to take his bill for confessed, and proceed in the same manner as in the case of an attachment returned executed, or he may have a general commission to take depositions, or he may move the court to bring in the defendant to answer interrogatories, at his election, and proceed on to hearing the two last cases, as if the answer had been filed; and the cause was at issue **PROVIDED** that the court, for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing. Whenever a general commission shall issue for taking depositions upon answer and replication, six months from the time of the replication shall be allowed the parties for taking their depositions; and either party, at the expiration of the said six months, may set the same for hearing, nor shall any deposition taken after that time be read as evidence on the hearing, except the same was taken by consent of the parties, by special order of court, or out of the state. After obtaining a final decree for lands, slaves, or money, or things of a similar nature, the clerk of the High Court of Chancery, shall, upon the request of the party obtaining such decree issue any writ of execution, either a *scire facias*, *capias ad satisfaciendum*, *habecias possessionem*, or any other judicial process which may now issue from the General Court, according to the nature of the case, for carrying the said decree into effect; which writs shall issue in the name of the commonwealth, bear test by the presiding judge for the time being, and be witnessed by the clerk. An all process so to be issued, shall be executed and returned to the clerk's office of the High Court of Chancery, from term to term, on the return days thereof by the officer or officers to whom the same shall be directed, and shall have the same operation, and possess the same force to all intents and purposes, as similar process issued from the General Court. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect and the High Court of Chancery shall exercise in this, and in all cases relating to such process, the same powers as if the said process had issued from the General Court, and as that court could have exercised in a similar case. But nothing herein contained shall prohibit any party from proceeding to carry any order or decree of the High Court of Chancery into execution, in any manner of which he might avail himself before the passing of this act. An execution may be taken out in all cases where costs are recovered in manner above-mentioned. The High Court of Chancery may, at their discretion, direct an issue to be tried whenever they judge it necessary, either in their own court, or in any other court whatsoever, as justice or convenience to the parties may require. After answer filed, and no plea in abatement to the jurisdiction of the court; no exception for want of jurisdiction shall ever afterwards be made, nor shall the High Court of Chancery, or any other court, ever thereafter delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such court, and also of infants and *femes covert*. Any judge of the High Court of Chancery may qualify and take the appointed oaths of office, either in open court or before the Governor and Council, and in both cases such qualification shall be recorded in the said court, for which purpose a certificate in the latter case shall be given by the Governor of the said qualification. No discontinuance shall take place in any cause, from the non-attendance of a sufficient number of judges to constitute a court, or for the want of a continuing order in any case. The said court shall be considered as standing adjourned from day to day for the first six days of the term, and from thence to the succeeding term, whenever a sufficient number of judges do not attend to constitute a court; and one judge only being present, he may adjourn the court at any time. The said High Court of Chancery, or any judge out of term-time, shall have power, for good cause shewn, to allow a petition of appeal, and if necessary, order a supersedeas to stop the execution of any decree pronounced by an inferior court, at any time within three years after pronouncing the same; the party praying such appeal and supersedeas, complying with the terms which the said court or judge shall annex to such order. Whenever an appeal is prayed from any inferior court to the said High Court of Chancery, or bond is given for the removal of any suit in Chancery, in any manner whatsoever, it shall be sufficient in either case, if the said bond or bonds shall be executed by good and sufficient securities, although the appellant or party shall not execute the said bond or bonds. Whenever a witness or witnesses shall reside without the state, the said High Court of Chancery, or any judge thereof, upon an affidavit of the fact, may award a commission or commissions for taking his, her, or their deposition or depositions, to be directed to any persons he or they may think proper; and such deposition or depositions shall be admitted as evidence, if it shall appear that the opposite party had received reasonable notice of the time and place of taking the same. **AND WHEREAS** it hath been doubted, whether the power of the Court of Chancery to proceed against absent debtors, can be extended to other absent defendants;

SECT. III. *BE it enacted,* That in all cases whatever, where a suit is or shall be depending in the Court of Chancery, concerning any matter or thing whatever against any absent defendant or defendants, the court may, on satisfactory proof to them made, that such defendant or defendants is or are out of this commonwealth, or that upon enquiry at his, her, or their usual place of abode, he, she, or they could not be found, make any order similar to that which is directed to be made in case of absent debtors, adapting the same to the nature of the case, a copy of which order shall be published in like manner as is directed in case of absent debtors, and thereupon, if the appearance of such

absent defendant or defendants be not entered, the complainant may proceed in like manner as if an appearance had been entered. PROVIDED ALWAYS, That where such decree shall be made, such absent defendant or defendants may at any time within seven years, be permitted to file his, her, or their answer, and to shew cause why the said decree should be set aside, upon which the court may make such decree as shall appear to be equitable. AND WHEREAS the present mode of executing injunction-bonds is liable to great abuse,

SECT. IV. BE it further enacted, That where any injunction shall be granted, the clerk shall indorse on the subpoena, that the effect thereof is to be suspended until the party obtaining the same shall give bond, with sufficient security, in the office of the court in which the judgment to be enjoined shall have been obtained. The party obtaining the injunction shall then enter into bond, with sufficient security, and file the same in the clerk's office of that court in which the proceedings at law were had; and the clerk shall indorse on the subpoena that the bond is filed. The rules and regulations in this act contained, shall be also observed in the county courts, so far as they apply.

C H A P. X.

An ACT to amend the Act, intituled, "An Act for reforming the County Courts, and for other purposes."

[Passed the 5th of JHNUARY, 1788.]

SECTION I. WHEREAS doubts have arisen in the construction of the act, intituled, "An act for reforming the county courts, and for other purposes," and it is thought expedient that the same should be revised and amended; and to prevent the difficulties that often arise from multiplied laws on the same subject, it is necessary that the whole system should be brought into one point of view:

SECT. II. BE it therefore enacted by the General Assembly, That courts shall be held for each county and corporation on the several court days in the months of March, May, August and November, for the trial of all presents and criminal prosecutions, suits at common law and in Chancery, where the sum exceeds five pounds or eight hundred pounds of tobacco, depending therein, and continue for the space of six days, unless the business be sooner determined: And if it shall so happen that a sufficient number of justices shall not meet for holding the said courts on the first day of the term, or on any subsequent day thereof, it shall and may be lawful for any one justice to adjourn the court from day to day for the space of three days, and provided such adjournment shall not extend beyond the term limited for the duration of the session. The monthly and quarterly courts shall have concurrent jurisdiction in granting and dissolving injunctions in chancery, and in entering up judgments on attachments against absconding debtors where the property attached shall not be replevied, and except such as are by law finally cognizable before a single justice of the peace, in all petitions for debt, detinue and trover, and in all matters touching the breach of the peace and good behavior, in motions on replevin bonds, and motions against sheriffs and other public officers and defaulters. The respective county courts shall sit in the several months not before specified for the transaction of all business cognizable by the said courts, except such as has been herein assigned to the courts of quarter session. All original process to bring any person or persons to answer in any action or suit, indictment or information in the said courts of quarter session, and all subsequent process thereon, all process in Chancery awarded by the said court, and all other writs of what nature soever, shall be made returnable to the first day of the next succeeding quarterly term, except, subpoenas of injunction attachments, petitions and subpcenas for witnesses which shall be returnable to the next succeeding court, to be the same monthly or quarterly, as the case may require. Special bail may be taken in court at the quarterly sessions or at the monthly courts; and any justice of the peace when the courts are not sitting may take recognition of special bail in any action therein depending, which shall be taken *de bene esse*, and returned by the justice taking the same, to the clerk of the court before the next succeeding quarterly court, to be filed with the papers in such action. And if the plaintiff or his attorney shall except to the sufficiency of the bail so taken by a justice out of court, notice of such intended exception shall be given to the defendant or his attorney at least five days previous to the day at which such exception shall be taken; and if such bail shall be adjudged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had as if no such bail had been taken. The same proceedings shall be had against the common bail and sheriff in any suit, or either of them, their executors or administrators, and they or either of them may have the same remedy against the defendant or his executors or administrators in the county courts at their quarterly sessions, as is directed to be had in any district court in such cases. All imparlements to be taken and pleadings to be filed both in common law and in chancery, until an issue is joined or interlocutory decree or judgment obtained, shall be done at rules to be held monthly in the clerk's office on such days as the courts at their respective quarter sessions shall appoint, which rules shall be distinctly entered in a book to be kept for that purpose, and the clerk shall be allowed the same fees for entering such rules, as if the same had been made in court. And all rules to declare, plead, reply, and for other proceedings, shall be given from month to month, and shall be made and entered with the clerk of the court in the same manner as rules are made and en-

tered with the clerks of the district court in suits depending in them. PROVIDED NEVERTHELESS, That the court may at their quarterly session next after any of the said rules and proceedings have been had in the clerk's office, for good cause to them shewn, set aside any of the said rules and proceedings, and make such order concerning the same as to them may appear just and right. The clerk shall proportion the causes upon the docket from the first day of the court to the sixth, both inclusive, if in his opinion, so many days will be expended in trying the causes ready for trial, and issue subpoenas for witnesses to attend on the days to which the causes stand for trial. He shall docket the causes in order as they are put to issue, and no cause shall be removed from its place on the docket unless where the plaintiff at the calling the same be unprepared for trial, in which case, and no other, shall the cause be put at the end of the docket. When any witness resides out of this commonwealth, and within any other of the United States, or shall be about to depart the same, or by age, sickness or otherwise, shall be unable to attend in person, upon affidavit thereof, the court when sitting, or any justice thereof in vacation, may on request of either party direct a commission to be issued by the clerk of the court to two or more justices of the peace for taking the deposition of such witness, *de bene esse*, but the party obtaining such commission shall give reasonable notice to the adverse party of the time and place of taking such deposition, otherwise the same shall be void. If any party in any suit at common law or in chancery shall make oath that he verily believes his claim or defence, or a material point thereof, depends on a single witness, the court, or any justice thereof, may direct a commission to issue from the clerk of the court to two or more justices of the peace to take the deposition of such witness, *de bene esse*, although he or she be not about to depart the commonwealth, nor under any disability, the party in such case giving reasonable notice of the time and place of taking the same to the adverse party. When any witness resides beyond sea or in any foreign country, upon affidavit thereof, the court when sitting may, on request of either party, direct a commission to issue from the clerk's office, directed to such commissioners, not exceeding five, as shall be nominated and agreed upon by the parties litigant, for which purpose, the party applying for a commission in such cases shall give the adverse party, his attorney or agent, ten days previous notice of the day of his intended application to the court, without which no such commission shall issue; and if the adverse party, his attorney or agent, shall not attend for the purpose, in that case the party praying the commission, may nominate the commissioners himself, any three of whom in either case may proceed to execute the said commission: PROVIDED NEVERTHELESS, That in either case, reasonable notice shall be given to the adverse party of the time and place of taking such deposition, and the costs of giving any such notice as aforesaid, as well as of taking any deposition or depositions in any or either of the United States, or beyond sea, may be taxed by the court against the party who, in their opinion, ought in justice to pay the same. If any person attending before any county court referees or commissioners, appointed to take his or her deposition within this commonwealth, shall refuse to give evidence on oath or affirmation, as the case may be, to the best of his or her knowledge, any person so refusing, shall be committed to prison, either by the court referees or commissioners, there to remain, without bail or mainprise, until he or she shall give such evidence. Notice in writing of motions upon replevin-bonds, and against delinquent sheriffs and other officers, if left with the wife or other free person over the age of twenty-one years, other than a negro or mulatto, belonging to the family of such obligor, sheriff, or other officer, ten days before the making such motion, and at his or their usual place of abode, upon affidavit thereof being made, shall be deemed sufficient. The county courts, at their quarterly sessions, shall have similar jurisdiction with the High Court of Chancery, and shall proceed in the same manner against the estate and effects of persons residing out of this state, or absconding to avoid being served with the process of the said court; and may hear and determine all caveats against grants for lands lying within the jurisdiction of the laid courts respectively, except within the counties composing the district of Kentucky. The person entering a caveat against the issuing a grant upon any survey, shall take from the surveyor of the county, or from the register's-office, a certified copy of such survey and plat, which, within thirty days from the entering such caveat, he shall deliver to the clerk of the county where the suit is instituted, or such caveat shall be void, and the clerk thereupon shall make due entry thereof in a book kept by him for that purpose, and issue a summons, commanding the defendant to appear on the first day of the next succeeding quarterly court, to defend his or her right; and on such process being returned executed, the same proceedings shall be had thereon, as by law are directed in similar cases in the district courts. All writs of execution upon judgments obtained in the quarterly or monthly courts, and all executions and other process to enforce any decree in chancery, obtained in either of the said courts, may be made returnable to the first day of a quarterly or monthly court, provided there be not less than fifteen nor more than ninety days between the issue and return of such execution or process. Where any final judgment shall be entered up in the office against any defendant or defendants, and their securities, or against any defendant or defendants, and sheriff, by default, execution may issue thereon after the next succeeding quarterly court, unless the same be set aside during such court, in like manner as office-judgments in the district courts may be set aside; and all office-judgments so set aside, shall be immediately put at the end of the issue-docket, and tried the same court in turn with the other issues, unless the plaintiff shall waive his right of trial until the next quarterly term. The right of appeal from the county and corporation courts to the district courts, shall be exercised in the same manner as hath heretofore by law been accustomed from the county to the General Court.

SECT. III. AND be it further enacted, That where any writ of execution or attachment, for not performing a decree in chancery, shall come into the possession of any sheriff, coroner, or serjeant of a corporation, and he shall fail to

return the same to the office from whence it issued, on or before the return day thereof, it shall be lawful for the court, upon ten days previous notice being given, upon the motion of the party injured, to fine such sheriff, coroner, or serjeant, at their discretion, in any sum not exceeding five pounds per month, for every hundred pounds contained in the judgment or decree on which the execution or attachment so by him detained has been founded, and so in proportion for every greater or lesser sum. And where the execution or attachment has been founded upon a judgment or decree for the specific performance of an act or thing, in any sum not exceeding fifty pounds, the fines shall be to the use of the party injured, and at his request an execution shall issue therefor, and be indorsed by the clerk, that no security of any kind shall be taken. If any suit shall be dismissed for the non-attendance of an attorney practising either in the superior or inferior courts, not having a just and reasonable excuse, it shall be at his costs, and he shall moreover be liable for all damages his client shall sustain by such dismission, or any other neglect of his duty, to be recovered in any court of record in this state. And every attorney receiving money for his client, and refusing to pay the same when demanded, shall be proceeded against in a summary way, on notice, before any court of record, in the same manner that sheriffs are liable to be proceeded against for money received on executions.

SECT. IV. *AND be it further enacted,* That after obtaining a final decree for lands, slaves, or money, or things of a specific nature, the clerk of the county court shall, upon the request of the party obtaining such decree, issue any writ of execution, either a *fieri facias, capias ad satisfaciendum, habere facias posse*, or any judicial process which may now issue from such court, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the commonwealth, and bear teste, and be signed by the clerk of the court: And all process so issued shall be executed and returned to the clerk's office from which the same issued, from term to term, on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation and possess the same force to all intents and purposes, as similar process issued upon judgments at common law. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect; and the county court shall exercise in this, and in all cases relating to such process, the same powers as if the said process had issued upon a judgment obtained at common law: But nothing herein contained shall prohibit any party from proceeding to carry any order or decree of the county court in chancery into execution, in any manner in which he might avail himself before the passing of this act. No bail shall be demanded on a writ of *capias ad respondendum*, which shall be issued against a resident of one county in any other, until a *non est inventus* has been returned in the county in which the defendant resides, upon a *capias* issued in the same suit against such defendant; and every writ issued contrary thereto, without an indorsement of "no bail required," shall be voidable at any time before issue joined, or judgment by default, *nil dicit*, or *non sum informatus* thereon, but not afterwards: *PROVIDED*, that no such writ issuing from the county in which the cause of action accrued, shall be voidable by reason of bail being required thereon.

SECT. V. *AND be it further enacted,* That the court of quarter sessions for the counties of Bourbon, Madison, and Fayette, heretofore held in the months of March and November, and which has been found to interfere with the sessions of the district of Kentucky, shall from and after the first day of May next, be held in the months of February and October, instead of the said months of March and November: And that the courts of quarterly sessions in the counties of Washington, Montgomery, Russel, and Pendleton, shall be held on their respective court days in the months of April, June, September, and November in every year.

SECT. VI. SO much of every act or acts as comes within the purview of this act, shall be, and the same is hereby repealed.

C H A P. XI.

An ACT to encourage the speedy Payment of Arrearages of Taxes into the Public Treasury.

[Pased the 20th of DECEMBER, 1787.]

SECTION I. *WHEREAS* many judgments have been obtained in behalf of this commonwealth against sheriffs, for taxes due prior to the year one thousand seven hundred and eighty-seven, together with interest and damages thereon and costs; and it is judged expedient that such sheriffs should be exonerated from the payment of a larger sum than will reimburse the public;

SECT. II. *BE it therefore enacted by the General Assembly,* That it shall and may be lawful for every Sheriff or Collector, against whom any judgment hath been or shall be obtained, for taxes due prior to the said year one thousand seven hundred and eighty-seven, to discharge the same by the payment of the principal sum, together with six *per centum per annum* interest thereon, and costs; any law to the contrary thereof notwithstanding.

SECT. III. *PROVIDED ALWAYS,* That no sheriff or collector shall be entitled to the benefit of this act, unless he shall make payment of one half the

amount of such judgment, on or before the first day of April next, and also full payment of the balance on or before the first day of August next. *AND WHEREAS* doubts have arisen under the act, to empower the high sheriff to proceed in a summary way against their deputies, and for other purposes, whether the executors and administrators of the high sheriff shall be entitled to the remedy provided by the said recited act against the under sheriff of such sheriff;

SECT. IV. *BE it further enacted,* That in case of the death of any high sheriff, the executors and administrators of such high sheriff shall have the same remedy against the under sheriffs of the said sheriff and their securities, his and their executors and administrators, as is provided in the said recited act in case of the high sheriff.

C H A P. XII.

An ACT to amend an Act, "For establishing a DISTRICT COURT on the Western Waters."

[Pased the 4th of DECEMBER, 1787.]

SECT. I. *WHEREAS* all the citizens of this commonwealth are entitled to uniform government, and it is doubtful whether the laws that have passed since the establishment of the supreme court for the district of Kentucky, regulating the proceedings to be had in the High Court of Chancery and the General Court, do extend to the said supreme court, in those cases where that court is not particularly named;

SECT. II. *BE it enacted by the General Assembly, and it is hereby declared,* That all laws that have been enacted since the establishment of the said supreme court, and that hereafter may be enacted, relative to the jurisdiction of the High Court of Chancery and General Court of this state, and for regulating judicial proceedings in either of them, do, and shall extend to the said supreme court, in all cases, where for public conveniency it is not in such acts otherwise provided, and the said supreme court expressly excepted.

SECT. III. *AND be it further enacted and declared,* That the said supreme court has been, and shall be at all times subsequent to the institution thereof, invested with the same powers, and subject to the same regulations within the said district, as by law has been or shall from time to time be exercised by the said High Court of Chancery and General Court in the other parts of the state; and that all conveyances for lands within the said district, and all deeds admitted to record in the said supreme court, on due proof, acknowledgment, or certificate, all licences granted by examiners appointed by the said court, or by the judge thereof, to attorneys, counsellors, or proctors at law for the district, with all and every other proceeding and proceedings in the said supreme court, which are conformably to the proceedings of the said High Court of Chancery and General Court, as the case requires, and that are authorized by law at the time being, are and shall be, and are hereby declared to be good and valid; any seeming ambiguity or contrariety that is in the laws thereto respecting, notwithstanding. *AND WHEREAS* it has been represented to the present General Assembly, that the proceeds of the deputy register's office in the district of Kentucky, are become inadequate to the payment of the annual salaries of the judges and attorney-general of the said district, and of consequence the business of the said deputy register much diminished; and as it is reasonable that salaries and services ought to bear a just proportion to each other,

SECT. IV. *BE it further enacted,* That from and after the passing of this act, the deputy register of the said district shall receive for his services, the sum of one hundred pounds *per annum*, and no more.

SECT. V. *AND be it further enacted,* That if the sum arising from the said deputy register's office should, after the reduction of his salary as aforesaid prove inadequate to the discharge of the salaries of the said judges and attorney-general, as directed by act of Assembly, that then, at the end of each term of quarter, the said judges and attorney-general shall make a settlement with the deputy register for their quarterly salaries, and take a certificate from him of balance at that time due to them, or each of them respectively; which said balance shall, on presentation of the said certificate, be paid off by the clerk of the said district court, or of any of the county courts within the said district, if much money be in his or their hands, out of the money arising from the tax ordinary licences, law process, alienation of lands, or the tax laid by the General Assembly of this state, in the year one thousand seven hundred and eighty-six, on his or their annual fees; and all such certificates, with the proper receipt on them, of his or their having actually paid the money as aforesaid, shall be credited to him or them in the settlement of their accounts, in the same manner as if such money had been by them paid into the treasury. *AND WHEREAS* it is further represented to this General Assembly, that it is attended with inconvenience and expence to the parties concerned, without producing any benefit to this commonwealth, for the sheriff and other officers belonging to the said superior court of the district of Kentucky, to apply to the treasury of this commonwealth for the payment of the salaries or stipends allowed them for their several services.

SECT. VI. *BE it further enacted,* That from and after the passing of this act, the said district court, at the end of each term, shall proceed to make an al-

ence to each of their said officers, according to what they shall adjudge an equivalent to their services respectively, not exceeding the allowance given to the like officers of the General Court or High Court of Chancery aforesaid; which allowance respectively shall be entered by the clerk of the said district court on his minute-book, and an attested copy thereof be by him delivered to each of the said officers respectively; which attested copy or copies may be by such sheriff, or other officer, presented to the clerk of the said district court, or any of the county court clerks within the said district; which clerk or clerks, after paying off the deficiency to the judges aforesaid, if any such deficiency should happen, shall immediately, out of the monies then remaining in his or any of their hands, arising from the taxes aforesaid, pay to such sheriff or officer aforesaid his just demand; which payments also shall be allowed the clerk or clerks in their settlement with the treasurer as aforesaid. AND as it has also been represented, that many suitors have been prevented from the speedy execution of their business in the said supreme court, on account the short duration of the terms of said court,

SECT. VII. BE it therefore enacted, That the judges may continue to sit twenty-four days (Sundays excluded) in each of the months of June and September.

SECT. VIII. AND be it further enacted, That every other act, clause, or clauses, so far as the same falls within the purview of, or may be deemed contradictory to this act, shall be, and the same is hereby repealed.

C H A P. XIII.

An ACT for cutting a navigable CANAL from the waters of ELIZABETH RIVER, in this state, to the waters of PASQUOTANK river in the state of NORTH CAROLINA,

(Passed DECEMBER 1, 1787.)

SECTION I. WHEREAS the cutting of a navigable canal from the waters of Elizabeth river, in this state, to the waters of Pasquotank river in the state of North Carolina, will be of great public utility, and many persons are willing to subscribe large sums of money to effect so beneficial a work, and it is just and proper that they, their heirs and assigns, should be empowered to receive reasonable tolls for ever, in satisfaction for the money advanced by them in carrying the work into execution, and the risk they run, therefore, BE it enacted by the General Assembly of Virginia, that it shall and may be lawful to open books in the towns of Norfolk, Portsmouth, Suffolk, Petersburg, Richmond, York, Fredericksburg, and Alexandria, under the management of George Kelly in Norfolk; of John Cowper in Portsmouth; of Wells Cowper in Suffolk; of Christopher M'Connico in Petersburg; of James Heron in Richmond; of Thomas Nelson in York; of William Lewis in Fredericksburg, and of William Hartshorne in Alexandria; and under the management of such persons and at such places in North Carolina as shall be appointed by that state for receiving and entering subscriptions to the amount of eighty thousand dollars for the said undertaking, which subscriptions shall be made personally or by power of attorney, and shall be in Spanish milled dollars, but may be paid in other silver or in gold coins of the same value. That the said books shall be opened for receiving subscriptions on the first day of May next, and continue open until the first day of September next inclusive; and on the nineteenth day of the said month of September there shall be a general meeting of the subscribers at Halifax in the state of North Carolina, of which meeting, notice shall be given by the said managers, or any three of them, in the gazettes of both the aforesaid states at least one month next before the said meeting, and such meeting shall and may be continued from day to day until the business is finished. And the acting managers shall, at the time and place aforesaid, lay before such of the subscribers as shall meet according to the said notice the books by them respectively kept, containing the state of the said subscriptions; and if one half of the capital sum aforesaid, should on examination appear not to have been subscribed, then the said managers are empowered to take and receive subscriptions to make up the deficiency; and a just and true list of all the subscribers with the sums subscribed by each shall be made out and returned by the said managers, or any four or more of them, under their hands into the General Court of this state, and into such court as the state of North Carolina shall direct, to be there recorded. And in case more than eighty thousand dollars shall be subscribed, then the same shall be reduced to that sum by the said managers or a majority of them, by beginning at and striking off from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one share, until the sum is reduced to the capital aforesaid of eighty thousand dollars, or until a share is taken from all subscriptions above one share; and lots shall be drawn between subscribers of equal sums, to determine the number, in which such subscribers shall stand on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then they shall strike off by the same rule until the sum subscribed is reduced to the capital aforesaid, or all the subscriptions are reduced to one share; and if

there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded to reduce the subscriptions to the capital aforesaid, which striking off shall be certified in the list aforesaid, and the said capital sum shall be reckoned and divided into three hundred and twenty shares of two hundred and fifty dollars each, of which every person subscribing may take and subscribe for one or more whole shares, and not otherwise.

SEC. II. PROVIDED, that unless one half of the said capital shall be subscribed, all subscriptions made in consequence of this act shall be void, and in case one half and less than the whole of the said capital shall be subscribed as aforesaid, then the president and directors are hereby empowered and directed to take and receive the subscriptions which shall be first offered, in whole shares as aforesaid, until the deficiency shall be made up; a certificate of which additional subscriptions shall be made under the hands of the president and directors or a majority of them for the time being, and returned to, and recorded in the courts as aforesaid.

SEC. III. AND be it enacted, that in case one half of the said capital, or a greater sum shall be subscribed as aforesaid, the said subscribers, and their heirs and assigns, from the time of the said first meeting, shall be and are hereby declared to be incorporated into a company by the name of the dismal swamp canal company, and may sue and be sued as such; and such of the said subscribers as shall be present at the said meeting, or a majority of them are hereby empowered and required to elect a president and four directors for conducting the said undertaking and managing all the said companies business and concerns, for and during such time not exceeding three years, as the said subscribers or a majority of them shall think fit; and in counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten by him or her held at the time in the said company; and any proprietor by writing under his or her hand executed before two witnesses, may depute any other member or proprietor to vote and act as proxy for him or her at any general meeting.

SEC. IV. AND be it enacted, that the said president and directors so elected, and their successors, or a majority of them assembled, shall have power and authority to agree with any person or persons on behalf of the said company, to cut the said canal and to erect such locks and perform such other works as they shall judge necessary for the navigation of the said canal, and carrying on the same from place to place, and from time to time, and upon such terms, and in such manner as they shall think fit, and out of the money arising from the subscriptions and tolls and other aids hereafter in this act given to pay for the same and to repair and keep in order the said canal, locks, and other works necessary thereto, and to defray all incidental charges, and also to appoint a Treasurer, clerk, and such other officers, toll-gatherers, managers, and servants, as they shall judge requisite, and to agree for and settle their respective wages or allowances, and little, palls, and sign their accounts, and also to make and establish rules of proceeding and transact all the other business and concerns of the said company in and during the intervals between the general meetings of the same; and they shall be allowed as a satisfaction for their trouble therein, such sums of money as shall by a general meeting of the subscribers be determined.

SEC. V. PROVIDED always, that the treasurer shall give bond in such penalty and with such security, as the said president and directors or a majority of them shall direct for the true and faithful discharge of the trust reposed in him, and that the allowance to be made to him for his services shall not exceed three pounds in the hundred for the disbursements by him made, and that no officer in the said company shall have a vote in the settlement or passing of his own account. And be it enacted, that the said president and directors, and their successors, or a majority of them, shall have full power and authority from time to time, as money shall be wanting, to make and sign orders for that purpose, and direct at what time, and in what proportion the proprietors shall advance and pay off the sums subscribed, which orders shall be advertised at least one month in the North Carolina and Virginia Gazettes; and they are hereby authorized and empowered to demand and receive of the several proprietors from time to time, the sums of money so ordered to be advanced for carrying on and executing, or repairing and keeping in order the said works, until the sums subscribed shall be fully paid; and to order the said sums to be deposited in the hands of the Treasurer, to be by him disbursed and laid out, as the said president and directors, or a majority of them shall order and direct; and if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the same so ordered and advertised as aforesaid, the said president and directors or a majority of them, may sell at auction and convey to the purchaser, the share or shares of such proprietor so refusing or neglecting payment, giving at least one month's notice of the sale in the North Carolina and Virginia gazettes; and after retaining the sum due and charges of sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid with the incidental charges, the said president and directors or a majority of them, may, in the name of the company, sue for and recover the balance by motion on ten days previous notice; and the said purchaser or purchasers shall be subject to the same rules and regulations, as if the said sale and conveyance had been made by the original proprietor.

SEC. VI. AND to continue the succession of the said president and directors and to keep up the same number, *Be it enacted*, that from time to time, on the expiration of the term for which the said president and directors were appointed, the proprietors of the said company at the next general meeting shall either continue the said president and directors or any of them, or shall choose others in their stead; and in case of the death, removal, resignation or incapacity of the president or any of the directors, may and shall in manner aforesaid elect any other person or persons to be president and directors in the room of him or them so dying, removing, resigning or becoming incapable of acting, and may at any of their general meetings remove the president or any of the directors and appoint others for and during the remainder of the term for which such person or persons were at first to have acted.

SEC. VII. *AND be it enacted*, that every president and director, before he acts as such, shall take an oath or affirmation for the due execution of his office.

SEC. VIII. *AND be it enacted*, that the presence of proprietors having one hundred and eighty shares at least, shall be necessary to constitute a general meeting, and that there be a general meeting of proprietors on the first Monday in September in every year, at such convenient town, as shall from time to time be appointed by the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend may adjourn such meeting from day to day, till a general meeting of proprietors shall be had, which may be continued from day to day until the business of the company is finished, to which meeting the president and directors shall make report, and render distinct and just accounts of all their proceedings, and on finding them fairly and justly stated, the proprietors then present or a majority of them shall give a certificate thereof, a duplicate of which shall be entered on the said companies books; and at such yearly general meetings, after leaving in the hands of the treasurer such sum as the proprietors or a majority of them shall judge necessary for repairs and contingent charges. An equal dividend of all the nett profits arising from the tolls hereby granted shall be ordered and made to the proprietors of the said company in proportion to their several shares; and on any emergency in the interval between the said yearly meetings, the president or a majority of the directors may appoint a general meeting of the proprietors of the company at any convenient town, giving at least one months previous notice in the North Carolina and Virginia Gazettes, which meeting may be adjourned and continued as aforesaid.

SEC. IX. *AND be it further enacted*, that for and in consideration of the expences the said proprietors will be at, not only in cutting the said canal, erecting locks, making causeways and performing other works necessary for this navigation, but in maintaining and keeping the same in repair, the said canal, locks, causeways, and other works, with all their profits, shall be and the same are hereby vested in the said proprietors, their heirs and assigns for ever, as tenants in common in proportion to their respective shares, and the same shall be deemed real estate, and be for ever exempt from the payment of any tax imposition or assessment whatsoever, and it shall and may be lawful for the said president and directors at all times for ever hereafter, to demand and receive at some convenient place near one of the extremities of the canal, for all commodities transported through it or over the causeways, tolls, according to the following table and rates which shall be in Spanish milled dollars, to wit:

Parts of a Dollar.	
1	72nd.
20	72nd.
24	72nd.
24	72nd.
18	72nd.
18	72nd.
" "	
5	288ths.
4	288ths.
3	288ths.
2	288ths.
6	72nd.
4	72nd.
3	72nd.
2	72nd.
" "	
36	72nd.
12	72nd.
30	72nd.
6	72nd.
8	72nd.
20	72nd.
30	72nd.
6	72nd.
4	72nd.

Every pipe or hogshead of wine containing more than
sixty five gallons,

Every hogshead of rum or other spirits,

Every hogshead of tobacco,

Every hogshead of molasses,

Every butt or hogshead of malt liquor,

Every cask between sixty five and thirty five gallons,
one half of a pipe or hogshead; every barrel, one
fourth part; and every smaller cask or keg in pro-
portion according to the quantity and quality of
their contents,

Every dozen of bottled wine,

Every dozen of bottled malt liquor,

Every bushel of wheat, pease, beans, rice, or flax seed,

Every bushel of Indian corn, or other grain, or salt,

Every barrel of pork,

Every barrel of beef,

Every barrel of fish or flour,

Every barrel of tar, pitch, turpentine, or rosin,

Every cask of linseed oil or spirits of turpentine, the same
as molasses.

Every ton of hemp, flax, potash, or bar iron,

Every ton of pig iron or castings,

Every ton of copper, lead, or other ore, other than iron ore,

Every ton of stone or iron ore other than the ballast of the vessel,

Every chaldron of coals,

Every hundred bushels of lime or of shells,

Every thousand of bricks or tiles,

Every hundred of pipe staves,

Every hundred of hogshead staves or pipe or hogshead heading,

Every hundred of barrel staves or barrel heading,	3	72nd.
Every thousand shingles from eighteen to twenty four inches,	3	72nd.
Every thousand of three feet shingles,	6	72nd.
Every thousand clapboards or pails,	9	72nd.
Every cord of fire wood,	12	72nd.
Every hundred cubic feet of plank or scantling,	40	72nd.
Every hundred cubic feet of all other timber,	30	72nd.
Every hundred pounds of brown or clayed sugar,	3	72nd.
All other produce, goods, wares, or merchandize, one fourth per centum.	45	"
Every boat or vessel exceeding one ton burthen which has not commodities on board to yield so much (ex- cept an empty boat or vessel returning, whose load has already paid the toll, in which case she is to repays free of toll.)	18	72nd.
Every canoe, boat, or vessel, under one ton burthen which has not commodities on board to yield so much except as in the preceding article excepted.	6	72nd.
Every man (except foot travellers, who shall pass toll free) horse, ox in draft, and wheel passing the cause- ways (except the loads they carry yield so much, or empty waggons or carts returning, whose loads has paid the toll.)	1	72nd.
Every head of black cattle,	3	72nd.
Every hog,	1	72nd.
Every sheep,	2	288ths.
Every hundred weight of indigo,	12	72nd.
SEC. X. ALL produce, goods, wares, or merchandize, passing the cause- ways shall be subject to the same toll, as goods passing through the canal; but which tolls though chargeable in Spanish milled dollars may be paid in other silver, or in gold coin of the same value. And in case of refusal to pay the tolls at the time of offering to pass the place of resaid, and previous to passing the same, the collector of the said tolls may lawfully refuse passage to whatever refuses payment, and if any vessel, waggon, or cart, shall pass without paying the toll, then the said collector may seize such vessel, wag- gon, or cart, wherever found and sell the same at auction for ready money, which, so far as is necessary, shall be applied towards paying the said toll, and all expences of seizure and sale, and the balance, if any, shall be paid to the owner, and the person having the direction of such vessel, waggon, or cart, shall be liable for such toll, if the same is not paid by the sale as afore- said. Provided, that the said proprietors or a majority of them holding at least one hundred and eighty shares, shall have full power and authority, at any general meeting, to lessen the said tolls or any of them, or to determine that any article may pass free of toll.		
SEC. XI. <i>AND be it enacted</i> , that the said canal and works to be erected thereon in virtue of this act, and the causeways when completed, shall for- ever thereafter be esteemed and taken as public highways, free for the trans- portation of all goods, wares, commodities or produce whatsoever; and for travelling on payment of the tolls imposed by this act, and no other toll or tax whatever for the use of the water of the said canal and the works thereon erected, or the causeways, shall at any time hereafter be imposed by both or either of the said states, subject nevertheless to such regulations as the Legislatures of the said states may concur in, to prevent the importation of prohibited goods, or to prevent fraud in evading the payment of duties imposed in both or either of the said states on good imported into either of them.		
SEC. XII. <i>AND WHEREAS</i> it is necessary for the making of the said canal, locks, causeways, and other works, that a provision should be made for condemning a quantity of land for the purpose,		
SEC. XIII. <i>BE it enacted</i> , that it shall and may be lawful for the said president and directors, or a majority of them to agree with the owners of any land through which the said canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a female under age, non-compos, or out of the state, on application to any two justices of the county in which such land shall lie, the said justices shall issue their warrant under their hands to the sheriff of their county to summon a jury of eighteen inhabitants of his county of property and reputation, not related to the parties nor in any manner interested, to meet on the land to be valued at a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on receiving the said warrant, shall forthwith summon the said jury, and when met, provided that not less than twelve do appear, shall administer an oath or affirmation to every jury- man that shall appear, "That he will fairly, justly, and impartially value the land (not exceeding the width of three hundred feet) and all damage the owner thereof shall sustain by cutting the canal through such land, according to the best of his skill and judgment, and that in such valuation he will not spare any person through favour or affection, nor any person grieve through malice, hatred or ill will." And the inquisition thereon taken shall be signed by the sheriff and some twelve or more of the jury and returned by the sheriff to the clerk of his county, to be by him recorded and on every such valuation the jury is hereby directed to describe and at- certain the bounds of the land by them valued, and their valuation shall be		

conclusive on all persons, and shall be paid by the said president and directors to the owner of the land or his legal representatives, and on payment thereof the said company shall be seized in fee of such land as if conveyed by the owner to them and their successors by legal conveyance.

SEC. XIV. *PROVIDED* nevertheless, that if any farther damage shall arise to any proprietor of land in consequence of opening such canal or in erecting such works, than had been before considered and valued, it shall and may be lawful for such proprietor as often as any such new damage shall happen, by application to and a warrant from any two justices of the county where the lands lie, to have such farther damage valued by a jury in like manner and to receive and recover the same of the said president and directors. But nothing herein shall be taken or construed to entitle the proprietor of any such land to recover compensation for any damages which may happen to any mills, or other works, or improvements which shall be begun or erected by such proprietor after such first valuation, unless the said damage is wilfully or maliciously done by the said president and directors, or some person by their authority.

SEC. XV. *AND* be it enacted, that the said president and directors or a majority of them are hereby authorized to agree with the proprietor or proprietors for the purchase of a quantity of land not exceeding one acre, at or near the place of the receipt of tolls aforesaid for the purpose of erecting necessary buildings, and in case of disagreement or any of the disabilities aforesaid, or the proprietor being out of the state, then such land may be valued, condemned, and paid for as aforesaid, and the said company shall on payment of the valuation of the said land be seized thereof in fee simple as aforesaid.

SEC. XVI. *AND WHEREAS* it is represented that the waters of the lake in the Dismal Swamp commonly called Drummond's Pond may be useful for a supply of water to the said canal.

SEC. XVII. *BE it enacted*, that the said lake, so far as the waters thereof shall be necessary for the purpose aforesaid, shall be and is hereby vested in the proprietors of the said canal, and it shall and may be lawful for the said president and directors or a majority of them to open, if they shall find it expedient a cross canal from the lake to the principal canal for the purpose of drawing from thence a supply of water, and for executing this work and keeping it in repair, they shall have the same powers which they are authorized to exercise in opening the principal canal. And it shall not be lawful for any person whatsoever so to cut off or divert the courses of those waters, which now flow from the westward into the said lake, as to prevent their continuing to fall into it.

SEC. XVIII. *AND WHEREAS* some of the places through which it may be necessary to conduct the said canals may be convenient for erecting mills and other water works, and the persons possessors of such situations may design to improve the same, and it is not the intention of this act to interfere with private property but for the purpose of improving and perfecting the said navigation.

SEC. XIX. *BE it enacted*, that the water or any part thereof conveyed through the said canals shall not be used for any purpose but navigation, unless there shall be sufficient to answer both the purposes of navigation and water works aforesaid, in which case the said president and directors, or a majority of them are hereby empowered and directed to enter into reasonable agreements with the proprietors of such situations concerning the just proportion of the expences of making the canals capable of carrying such quantities of water as may be sufficient for the purposes of navigation and also for any such water works as aforesaid.

SEC. XX. *AND WHEREAS* the said canals may be of great utility in affording the means of draining the sunken lands through which they pass.

SEC. XXI. *BE it enacted*, that it shall and may be lawful for the proprietors of the said adjacent sunken lands to open cross ditches into the said canals, Provided, that these cross ditches shall not be within less than one mile of one another on the same side of the canals, and be covered where they pass through the causeways with good bridges of the breadth of the causeways at the expence of the persons cutting them and also be so constructed that the water may be entirely prevented passing through them into the canals at any time, when this shall be necessary. And the works occasioned by these cross ditches, except the bridges, shall be kept in repair at the expence of their proprietors.

SEC. XXII. *AND be it enacted*, that it shall and may be lawful for every of the said proprietors to transfer his share or shares by deed executed before two witnesses, and registered after proof of the execution thereof in the said company's books and not otherwise, except by devise, which devise shall also be exhibited to the president and directors, and registered in the company's books before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls. Provided, that no transfer whatsoever shall be made except for one or more whole share or shares, and not for part of such shares, and that no share shall, at any time, be sold, conveyed, transferred, or held in trust for the use and benefit, or in the name of, another, whereby the said president and directors, or proprietors of the said company

or any of them shall or may be challenged or made to answer concerning any such trust, but that every such person appearing as aforesaid to be a proprietor, shall, as to the others of the said company be to every intent taken absolutely as such, but between any trustee and the person for whose benefit any trust shall be created the common remedy may be pursued.

SEC. XXIII. *AND WHEREAS* it hath been represented, that sundry persons are willing and desirous on account of the public advantage, and also the improvement their estates may receive thereby, to promote and contribute towards so useful an undertaking and to subscribe sums of money to be paid on condition the said works are completed and carried into execution; but do not care to run any risque, or desire to have any property therein.

SEC. XXIV. *BE it therefore enacted*, that the said president and director shall be, and are hereby empowered to receive and take in subscriptions on the said conditions, and on the said works being completed and carried into execution according to the true interest and meaning of this act, that is that and may be lawful for the said president and directors or a majority of them in case of refusal or neglect of payment in the name of the company aforesaid, to sue for and recover of the said subscribers, their heirs, executors, or administrators, the sums by them respectively subscribed, by action of debt, or on the case in any court of record within this state.

SEC. XXV. *AND be it enacted*, that if the said capital and the other aid already granted by this act shall prove insufficient, it shall and may be lawful for the said company from time to time to increase the said capital by an addition of so many more whole shares, as shall be judged necessary by the said proprietors or a majority of them holding at least one hundred and eighty shares present at any general meeting of the said company. And the said president and directors, or a majority of them are hereby empowered and required after giving at least one months notice thereof in the North Carolina and Virginia Gazettes, to open books at the before mentioned places for receiving and entering such additional subscriptions, in which the proprietors of the said company for the time being shall and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for as many whole shares as any of them shall choose. And the said president and directors are hereby required to observe in all other respects the same rule therein as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner to return under the hands of any three or more of them an exact list of such additional subscribers with the sums by them respectively subscribed into the courts as aforesaid, to be there recorded. And all proprietors of such additional sums shall and are hereby declared to be from thence forward incorporated into the said company.

SEC. XXIV. *AND it is hereby declared and enacted*, that the tolls herein before allowed to be demanded and received, are granted and shall be paid on condition only, that the said Dismal Swamp canal company shall make the canal thirty two feet wide, and eight feet in depth below the surface of the earth, and capable of being navigated in dry seasons by vessels drawing three feet water, from Deep Creek near Tuckers mill in Virginia to the high good navigation for vessels of the aforesaid draft, in Pasquotank river North Carolina, with sufficient locks each of ninety feet in length a thirty two feet in breadth, and capable of conveying vessels drawing four feet water at the least, and that each of the causeways shall be twenty feet in breadth.

SEC. XXVII. *AND it is hereby enacted and provided*, that in case the said company shall not begin the said work within one year after the company shall be formed, or if the said company shall not complete the navigation of the works as aforesaid within ten years after the said company shall be formed, then shall all interest of the said company and all preference in their favor as to the navigation and tolls of the said canals and causeways, be forfeited and cease.

SEC. XXVIII. *AND WHEREAS* at a meeting of commissioners appointed by the states of North Carolina and Virginia to agree on the form of act for cutting the said canal, and for regulating the commerce which shall be carried on through it between the citizens of the two states, to w Archibald Maclaine William M'Kenzie, James Galloway, and John St. Esquires, on the part of North Carolina, and Robert Andrews and J Cowper, Esquires, on the part of Virginia, at Fayette-Ville, in the state of North Carolina, on the twelfth day of December in the year of our Lord one thousand seven hundred and eighty six, the following compact was mutually agreed to by the said commissioners: First. The State of Virg agrees that the waters of Elizabeth river from the said canal to the mouth thereof, the waters of Hampton Road, and of Chesapeake Bay to the sea, and also Roanoke river wherever it is in Virginia, shall be forever considered as a common highway free for the use and navigation of all vessels belonging to the state of North Carolina or any of its citizens, and that they shall be therein subject to the payment of any toll or charge whatever, imposed for the purpose of raising a revenue. Secondly. The state of Virginia agrees that no restriction, duty, or impost, shall be laid on any commodity, whether it is the growth, produce, or manufacture, of the state of North Carolina brought through the said canal or over the said causeways for sale or exportation, and that the same may be exported without reinspection. Thirt-

The State of Virginia agrees that when any imported goods shall within five months after entry be exported through the said canal or over the said causeways into the state of North Carolina in packages, bales, or casks, as imported, the duties thereof shall be remitted or repaid as the case may be to the exporter, on his producing within six months after the aforesaid entry the certificate of the naval officer of the district of North Carolina, into which the said canal enters, that the said goods have been entered there. Fourthly. The state of North Carolina agrees that the waters of Roanoke river, Meherrin, Nottaway, Chowan, Albemarle Sound, as low as the mouth of Pasquotank river, and of Pasquotank, from the mouth thereof to the said canal shall be forever considered as a common highway free for the use and navigation of all vessels belonging to the state of Virginia or any of its citizens, and that they shall not be subject therein to the payment of any toll or charge whatever imposed for the purpose of raising a revenue. Fifthly. The State of North Carolina agrees that no restriction, duty, or impost, shall be laid on any commodity which is the growth, produce, or manufacture, of the state of Virginia, passing through the aforesaid waters to the said canal, or brought through the said canal or over the said causeways for sale or exportation, and that the same may be sold or exported without reinspection. In those articles where it is expressed that no duty or impost is to be laid for the purpose of raising revenue it is not to be understood that the imposition of tolls for the purpose of improving the navigation of the said waters is prevented. Sixthly. The state of North Carolina agrees that when any imported goods shall within five months after entry be exported through the said canal or over the said causeways into the state of Virginia, in packages, bales, or casks, as imported, the duties thereof shall be remitted or repaid as the case may be to the exporter on his producing within six months after the aforesaid entry the certificate of the naval officer of Norfolk, that the said goods have been entered there. Seventhly. Imported goods passing from one part of either of the said two states to another part of the same, through any of the waters of the other state, shall not be subject to any duty imposed for the purpose of raising a revenue. Lastly. The citizens of each of the said two states may have the use of the inspections of the other, for the purpose of reinspecting any damaged commodities, which have passed through the said canal, on paying the price of the labour of reinspection and no more.

SEC. XXIX. AND WHEREAS this General Assembly are of opinion that the said compact is made on just and mutual principles for the true interest of both governments.

SEC. XXX. BE IT THEREFORE ENACTED, that the said compact is hereby approved, confirmed, and ratified, by the General Assembly of the state of VIRGINIA, and that every article, clause, matter, and thing, therein contained, shall be obligatory on this state and the citizens thereof, and shall be forever faithfully and inviolably observed and kept by this government and all its citizens, according to the true intent and meaning of the said compact, and the faith and honour of this state are hereby solemnly pledged and engaged to the General Assembly of the state of North Carolina and the government and citizens thereof, that this law shall never be repealed or altered by the Legislature of this state, without the consent of the state of North Carolina. Every act or part of an act of Assembly which comes within the overview and meaning of this act shall be, and the same is hereby repealed, which act shall commence and be in force from and after the passing of a like act by the General Assembly of NORTH CAROLINA.

C H A P. XIV.

An ACT for establishing a MARINE HOSPITAL for the reception of aged and disabled SEAMEN.

(Passed DECEMBER 20, 1787.)

SECTION I. **W**HEREAS the tax imposed on seamen hath produced a fund sufficient for the purpose of erecting a Hospital for the reception of aged, sick, and disabled seamen, and it is just and proper that the same should be applied to the laudable purpose for which it was originally intended.

SEC. II. BE IT THEREFORE ENACTED by the General Assembly, that the Governor, with the advice of Council, shall, and he is hereby authorized to appoint seven commissioners for the purpose of erecting a Hospital for the reception of aged, sick, and disabled seamen at Washington in the county of Norfolk. In case of the death, resignation, or refusal to act of any of the said commissioners, the Governor with advice of Council shall supply such vacancy. The commissioners so to be appointed are hereby empowered to purchase a piece or parcel of land in the said town of Washington, and to contract for building thereon a commodious house or houses fit for the reception and accommodation of such aged, sick, and disabled seamen as they may from time to time think proper to admit into the same; to provide a surgeon, keep and matron to the said Hospital, with necessary nurses for the assistance and relief of such poor seamen, and to provide all necessaries for their comfortable support and maintenance, and in general from time to time to make and ordain all such rules, orders, and regulations, for the better establishing

and governing such Hospital as to them shall seem necessary. The said commissioners shall, so soon as they have purchased the land, and contracted for the building of the necessary houses thereon, lay before the Executive a clear statement of their proceedings, and an estimate of the expence attending the same, who shall thereupon direct the Auditor of public accounts to grant warrant upon the Treasurer to the said commissioners for such sum or sums of money as shall be necessary for the completion of the same, which warrant shall be paid by the Treasurer out of the marine fund. The said commissioners shall also once in every three months lay before the Executive an account of all the expences incurred in the support of the said Hospital, and the same being examined and approved, the Governor with the advice of Council, shall direct the Auditor of public accounts to grant a warrant in the manner before directed, which shall be paid by the Treasurer out of the same fund. The commissioners shall continue in office during good behaviour, to be judged of by the Executive, and in case any one of them shall be removed, the executive shall supply the vacancy occasioned thereby.

C H A P. XV.

An ACT directing the sale of certain PUBLIC LANDS

(Passed JANUARY 2, 1788)

SECTION I. **B**E IT ENACTED by the General Assembly, that the public lands lying in the counties of James City and Northampton formerly annexed to the office of Secretary, shall be, and they are hereby vested in Nathaniel Burwell, Samuel Beall, Dudley Digges, Joseph Hornsby, John Pierce, John Stringer, Littleton Savage, Peter Bowdoin, Edmund Custis, and John Cropper, gentlemen commissioners, who, or any three of them are hereby authorized and required to make sale of the same in the manner and on the terms hereinafter prescribed. Previous notice shall be given of the sale at least sixty days in the Virginia Gazette, and the commissioners shall dispose of the lands by public auction, on the premises, to the highest bidder on the day appointed if fair, if not, the next fair day, for specie or any of the public securities of this state bearing an interest of six per cent. the commissioners previously agreeing among themselves, and publishing to the bidders at what rate the securities will be received in lieu of specie. The purchasers under this act shall have six months credit for one third of the purchase, twelve months credit for another third, and eighteen months credit for the remaining one third, upon giving bond and security payable to the Governor and his successors for the use of the Commonwealth; but if the specie or public securities, as the case may be, shall not be paid at the time they become due, the commissioners or any one of them may and shall move for a judgment against the purchaser or purchasers, in the Court of the county where he or they reside, giving ten days notice of such motion.

SEC. II. AND WHEREAS the year may be considerably advanced before the sale of the lands aforesaid can be effected, **BE IT FURTHER ENACTED**, that the commissioners may if to them it shall appear for the public benefit, retain the same for the year one thousand seven hundred and eighty eight, and give the purchaser or purchasers possession the first day of January one thousand seven hundred and eighty nine. The commissioners shall after receiving the full amount of the sales aforesaid execute in behalf of the public, conveyance in fee to the purchasers, and pay the specie and public securities arising from the rents and sales into the public treasury, there to be appropriated and applied in aid of the Sinking Fund, after deducting two per cent. from the amount of the rents and sales for their trouble, or such of them as may execute the same.

C H A P. XVI.

An ACT to repeal an act intituled "An act for the establishment of COURTS OF ASSIZE, and for other purposes.

(Passed JANUARY 5, 1788.)

SECTION I. **B**E IT ENACTED by the General Assembly, that the act intituled "An act for establishing Courts of Assize," shall be, and the same is hereby repealed. And that so much of every act or acts of Assembly as prohibits an Attorney from practising at the same time in the Superior and Inferior Courts, shall be, and the same is hereby repealed, except only that no Attorney shall be permitted to prosecute in a Superior Court, an appeal from a judgment or decree of any Inferior Court, where he shall have appeared in the Inferior Court for the appellant.

SEC. II. AND BE IT FURTHER ENACTED, that from and after the first day of July next, the presence of five Judges of the General Court shall be necessary to constitute a Court, any law to the contrary notwithstanding.

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C H A P. XVII.

An ACT for the relief of Persons who have been or may be injured by the Destruction of the Records of County Courts.

[Passed the 17th of DECEMBER, 1787.]

SECT. I. WHEREAS the records of several county courts within this commonwealth, and other papers of consequence, have been or may be destroyed by fraud, accident, or otherwise, to the great injury of the citizens of this commonwealth: For relief therefore of such persons whose estates, titles, or interests have been or may be affected thereby,

SECT. II. BE it enacted by the General Assembly, That the courts of the counties where any such losses may have accrued, or shall hereafter accrue, when any original deeds, with an indorsement of the acknowledgment or proof thereof, and order for recording the same, attested by the clerk of the court, or the copies of any deeds with the indorsement so attested, or any wills, with the indorsement of the proof and the order for recording the same so attested, or of any judgment, decree, or order of court, in like manner attested, or of any inventory or other document before admitted to record in such court, and of all bonds, bills, notes, and all other papers necessarily filed in the office of such county, (the original of the same being lost or otherwise destroyed) shall be produced to them, shall order the clerk again to record all such original deeds, copies of deeds, or wills, with the said indorsements respectively; and all such copies of judgments, decrees, and orders of the court of their county, or of inventories or other documents; and the said clerk, when he shall have recorded any thing in pursuance of this act, shall indorse on the same that the original had been lost or destroyed, and shall make an entry to the same effect on the record with the thing recorded, which shall have the same operation and effect in law, to all intents and purposes, as the original record would have had.

SECT. III. AND be it also enacted, That the clerks of the several counties shall do and perform the services in this act mentioned for the same fees that are allowed by law in other cases, for a copy of any thing herein before-mentioned; and in like manner, shall take no other or greater fee for recording any deed which hath been already recorded, or shall be made only by occasion of the misfortune aforesaid, for settling the right or title of any person or persons whatsoever, to lands and tenements, slaves, or goods and chattels, than in other cases or shall be allowed by law for the copy of any such deed; any law, usage, or custom to the contrary notwithstanding.

SECT. IV. AND be it further enacted, That it shall and may be lawful for the Governor, with the advice of Council, to issue one or more commissions, as the case may require, under the seal of the commonwealth, to nine able and discreet persons directed, giving them or any of them full power and authority to meet at some convenient place, by them to be appointed, and to adjourn from time to time as they shall think fit, and to summon, hear, and examine all witnesses, at the instance of any person, touching the premises, and to take their depositions in writing, and to return the same with such commission or commissions, to the executive; which depositions shall be by them laid before the General Assembly at the next session, to the end that they may be enabled to grant such effectual relief to the sufferers by the loss of the said records as to them shall seem just and reasonable. And the said commissioners shall have power to appoint some person skilled in clerkship to attend them for keeping a journal of their proceedings, and drawing the depositions aforesaid; which person shall be paid for his services by each county respectively.

C H A P. XVIII.

An ACT to authorise the Courts of the several Counties and Corporations within this Commonwealth, to appoint INSPECTORS of LUMBER.

[Passed the 13th of DECEMBER, 1787.]

BE it enacted by the General Assembly, That it shall be lawful for the courts of the several counties and corporations within this commonwealth, to appoint so many inspectors of lumber within their respective limits as they shall deem necessary. The inspectors so to be appointed, shall in all cases be governed by the same rules and regulations, be subject to the same penalties, and have the same allowance for their services, as are prescribed by an act passed at the last session of the General Assembly, intituled "An act authorising the courts of the counties of Norfolk, Prince-^s-Anne, and borough of Norfolk, to appoint inspectors of lumber." If any master, commander, or skipper of any ship or vessel, shall take on board within any county or corporation where such inspectors have been or shall be appointed, he shall be subject to the same penalties as are imposed by the said recited act upon the master, commander, or skipper of any vessel taking on board for exportation lumber not duly inspected and passed from any port or place of Elizabeth river,

C H A P. XIX.

An ACT to empower the County Courts in the District of Kentucky, to establish Ferries within the same.

[Passed the 4th of DECEMBER, 1787.]

BE it enacted by the General Assembly, That the courts of the several counties within the district of Kentucky, if a majority of the magistrates, or not less than seven of each county be sitting, shall be, and they are hereby empowered, to establish public ferries across those rivers or creeks within their respective counties; wherever they shall deem it necessary: PROVIDED NEVERTHELESS, that no such ferry shall be established, unless the parties owning lands on both sides of any such river or creek, shall have had one month's notice, that application would be made for the establishment of such ferry. Where any river or creek shall be the boundary line between two counties, and any person owning land on either side of the said river or creek, shall wish to have a public ferry across the same, he or she shall apply to the court of the county in which his or her land lies, who are hereby authorised to establish such ferry from the land of such person to the opposite shore. And if any person shall think himself or herself aggrieved by the establishment of a public ferry or ferries by the county courts under this act, he or she shall have the right of appeal, or of obtaining a writ of error or supersedeas to the supreme court of the district from such determination or judgment, upon giving bond and security in like manner as is directed in other cases.

C H A P. XX.

An ACT to supply the defect of Evidence of the Royal Assent to certain Acts of Assembly under the former Government.

[Passed the 14th of DECEMBER, 1787.]

SECT. I. WHEREAS divers acts of the General Assembly of Virginia, as well public as private, were passed during the former regal government, with clauses therein for their suspension until the royal approbation thereof respectively should be obtained, a notification of which assent when transmitted hither from Great-Britain, was registered in the council books of that time; but as most of those books were lost or destroyed during the late war, persons who may be interested to prove the fact of such assent having been obtained, are deprived of that highest species of evidence, whereby many citizens may be involved in expensive and troublesome contentions, and in the private cases purchasers may lose not only their purchase-money, but valuable improvements: For remedy wherein,

SECT. II. BE it enacted by the General Assembly, That from and after the passing of this act, when in any court of law or equity a question shall arise, whether an act of assembly passed with a clause suspending such act until the royal approbation thereof was obtained, hath received such approbation; every such question shall be discussed upon such evidence and circumstances as may be produced by the parties, without requiring either party to shew the official assent to such act, or a certificate from the council books that such assent was registered therein; any law, usage, or custom to the contrary notwithstanding.

C H A P. XXI.

An ACT prescribing the Method of proving certain WILLS.

[Passed the 2d of JANUARY, 1788.]

SECT. I. WHEREAS it frequently happens that the wills of persons dying possessed of property within this commonwealth, are attested by persons who reside out of the jurisdiction of the courts thereof, so that they cannot be compelled by any legal process to attend for the purpose of proving such wills;

SECT. II. BE it therefore enacted by the General Assembly, That it shall be lawful for the General Court, or the Supreme Court of the district of Kentucky, when any will shall be produced to them for probate, and any witness or witnesses attesting the same, shall reside out of the jurisdiction of the said courts respectively, to issue a commission or commissions annexed to such will, and directed to the presiding Judge of any court of law, to any Notary-Public, Mayor, or other Chief Magistrate of any city, town, corporation, or county where such witness or witnesses may be found, empowering him to take and certify their attestations. If the person to whom any such commission shall be directed, shall certify in the manner such acts are usually authenticated by him, that the witness or witnesses personally appeared before him, and made oath, or affirmed, as

the case may require, that the testator signed and published the writing annexed to such commission, as his last will and testament, or that some other person signed it by his direction, that he was of disposing mind and memory, and that he or they subscribed their names thereto in his presence, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the court from whence such commission issued.

SECT. III. *AND be it further enacted,* That it shall be lawful for any county court, when any will shall be produced to them for probate, and any witness or witnesses attesting the same shall reside out of the limits of this commonwealth, or out of the jurisdiction of the supreme court of that part of the country in which such county may be, to issue commissions in the manner before directed; and upon the return thereof, with the attestations before-mentioned duly authenticated, such wills shall be recorded in like manner as if such commissions had issued from the General Court, or the Supreme Court of the district of Kentucky. **AND WHEREAS** the wills of sundry persons dying in the district of Kentucky, have been proved and recorded in the General Court, and in the courts of counties not within the said district, and the said wills cannot now be removed to the county where any such person may have died;

SECT. IV. *BE it therefore enacted by the General Assembly,* That it shall be lawful for the court of any county within the said district of Kentucky, in which any person died whose will has been recorded in the General Court, or in the court of any county not within the said district, to qualify the executors, or to grant certificates for obtaining letters of administration, upon an attested copy being produced to them of any such will, with a certificate that the same has been duly proved and recorded in any such court. **AND WHEREAS** the intercourse between this state and the other states in the union, and between this state and foreign nations, has become more considerable than heretofore, which renders it necessary that some mode should be adopted, to give authenticity to wills of persons dying within any of the United States of America, or in any foreign kingdom, state, nation, island, or colony beyond sea, and out of the jurisdiction of this state, having lands, goods, chattels, debts, or demands within this state, as well as to policies of insurance, charter-parties, powers of attorney, or other agreements in writing, foreign judgments, and specialties on record, registers of births, marriages, made, executed, entered into, given, and enregistered, by and between persons residing in any of the United States, or in any foreign kingdom, state, nation, or colony beyond sea, and out of the jurisdiction of this state:

SECT. V. *BE it enacted,* That copies of wills of such persons made, or hereafter to be made, and duly proved according to the laws of such other state in the union, kingdom, nation, island, or colony beyond sea, or of any place or places out of the jurisdiction of this state, where the testator shall have died, attested by the bishop, register, commissary, clerk, or other officer to whose custody such will, shall by the laws of such state, kingdom, nation, island, or colony, have been committed; to which copy shall be affixed a testimonial, and the seal of the city, county, corporation, or borough where such office is held, or of a notary-public residing in such city, county, corporation, or borough, or of the great seal of such state, kingdom, nation, province, island, or colony beyond sea, and out of the jurisdiction of this state, shall be admitted to record in the General Court, in the same manner as if the original will or wills had been proved in open court by the witness thereto, and copies of the same certified by the clerk of the said court, shall be admitted in evidence in all courts within this state, as if the original will or wills had been proved in the said court.

SECT. VI. *AND be it further enacted,* That all policies of insurance, charter-parties, powers of attorney, foreign judgments, specialties on record, registers of birth, and marriages, which have been made, executed, entered into, given, and enregistered in due form according to the laws of such state, kingdom, nation, province, island, or colony, and attested by a notary-public, with a testimonial from the proper officer of the city, county, corporation, or borough where such notary-public shall reside, or the great seal of such state, kingdom, province, island, colony, or place beyond sea, shall be evidence in all the courts of record within this commonwealth.

SECT. VII. *AND be it further enacted,* That all persons named as executors in any such will, shall after the copy thereof has been admitted to record as above directed, be entitled to a probate of the said will, in the same manner as if the original will had been proved in such court. And where there shall be no executors named in the said will, or the executors therein named shall all of them refuse the executorship, the court shall have the same power and authority to hear and determine the right of administration, and to grant a certificate for obtaining letters of administration with the will annexed, as if the original will had been proved in court.

C H A P. XXII.

An ACT to explain and amend the Acts for preventing fraudulent Gifts of SLAVES.

[Passed the 31st of DECEMBER, 1787.]

SECTION I. **W**HEREAS by an act of General Assembly, made in the year of our Lord, one thousand seven hundred and fifty

eight, intituled "An act for preventing fraudulent gifts of slaves," after reciting in the preamble thereof that many frauds have been committed by means of secret gifts made or pretended to have been made of slaves by parents and others, who have notwithstanding remained in possession of such slaves, as visible owners thereof, whereby creditors and purchasers have been frequently involved in expensive law suits, and often deprived of their just debts and purchases: for the prevention thereof it was enacted, that from and after the passing of the said recited act, no gift of any slave or slaves shall be good or sufficient in law to pass any estate in such slave or slaves to any person or persons whatsoever, unless the same be made by will duly proved and recorded, or by deed in writing, to be proved by two witnesses at the least, or acknowledged by the donor, and recorded in the General Court, or the court of the county where one of the parties lives within eight months after the date of such deed or writing. And whereas in the general construction of the said recited act, and of one other act of General Assembly, made in the year of our Lord, one thousand seven hundred and fifty seven, also intituled "An act for preventing fraudulent gifts of slaves," it has been understood that the same were not intended to interfere between the donor and donee, further than to prevent deceptions and frauds, and that the enacting parts of the said acts extended only to secret gifts of slaves, and whereof the donor retained possession, and not to gifts where the possession had been in the donee. And many parents and others have since the passing of the said recited acts, made gifts of slaves to their children and others, without deed in writing, and such donees have continued in possession of the slaves so given under a delivery at the time of making, or after such gifts, by which the donees have been considered as the owners of such slaves, and have obtained credit thereby. **AND WHEREAS**, from a late adjudication in a question arising on the said recited acts, it was determined that all gifts of slaves since the said acts are void, unless made in writing or confirmed by will, as in the said acts is directed; which late adjudication, by disquieting and disturbing possessions, will tend to produce infinite disputes and litigation, and contrary to the intention of the donors, to deprive children of the provisions made for them by their deceased parents, injure husbands who have married women possessed of slaves under such gifts, defraud creditors and purchasers of and under such donees, and multiply the mischiefs the said acts were intended to remedy: For prevention whereof,

SECT. II. *BE it enacted by the General Assembly,* That the said recited acts for preventing fraudulent gifts of slaves, shall from and after the passing of this act, be construed to extend only to gifts of slaves whereof the donors have, notwithstanding such gifts, remained in possession, and not to gifts of such slaves as have at any time come into the actual possession of, and have remained with the donee, or some person claiming under such donee.

SECT. III. *PROVIDED ALWAYS,* That nothing in this act contained shall be construed to alter any adjudication heretofore made under the said two recited acts, or either of them, nor to affect the interest of any bona fide purchaser for a valuable consideration, or creditor of the donor, before the donee hath been at least three years in possession of the slave or slaves under such gift; nor in any manner to restrain or affect the operation of the act of limitations.

C H A P. XXIII.

An ACT respecting the appointment of COUNTY COURT CLERKS, recommendation of SURVEYORS, and for other purposes.

[Passed the 8th of JANUARY, 1788.]

SECTION I. **W**HEREAS it sometimes happens the courts of the counties within this commonwealth are so divided in the appointment of their clerks, that neither of the candidates can be elected, whereby great inconveniences arise to the suitors in such courts, and like inconveniences may happen in the recommendation of surveyors:

SECT. II. *BE it therefore enacted by the General Assembly,* That whenever the court of any county within this commonwealth shall be so divided in the appointment of a clerk, or in the recommendation of a surveyor, that neither of the candidates shall be elected, or in the case of a surveyor recommended, it shall be lawful for the high sheriff of such county, and he is hereby required, to give his vote in favor of one of those candidates, between whom the court shall be divided. **AND WHEREAS** by an act, intituled "An act to extend the powers of the Governor and Council," it is amongst other matters therein contained, enacted "that upon any charge being made against a justice of the peace for misconduct, neglect of duty, or mal-practices, it shall and may be lawful for the Governor, with advice of the Council, to enquire into the charge, and if the facts alleged be proved, he in that case may, with the advice aforesaid, remove such justice from the execution of his office." **AND WHEREAS** so much of the said act, as above recited, appears to the present Assembly to be contrary to the true spirit of the constitution, which declares "that the legislative, executive, and judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the other;"

SECT. III. *BE it therefore enacted,* That so much of the said act, to extend the powers of the Governor and Council, as is above recited, shall be, and the same is hereby repealed.

C H A P. XXIV.

An ACT giving a more speedy remedy against DELINQUENT SUBSCRIBERS to the POTOWMACK and JAMES RIVER COMPANIES.

[Pased the 1st of DECEMBER, 1787.]

SECT. I. WHEREAS it hath been represented to the General Assembly, that the opening of the navigation in Potowmack and James Rivers, hath been retarded by the failure of many of the members of the Companies, instituted for the purpose of effecting the same, to pay their respective subscriptions; AND WHEREAS the mode of recovery now established by law hath been found wholly inadequate thereto; and works of such general utility to which the commonwealth hath already advanced several sums of money from time to time, as the same have been called for, ought not to be frustrated by the delinquency of individuals:

SECT. II. BE it therefore enacted by the General Assembly, That if any subscriber to the Potowmack or James River Company now is, or hereafter shall be in arrear for any sum or sums of money called for in pursuance of either of the two acts of General Assembly, the one intituled "An act for opening and extending the navigation of Potowmack River," and the other intituled "An act for opening and extending the navigation of James River," it shall and may be lawful for a majority of the directors of each Company to recover any such sum or sums of money from such subscriber in the General Court at any additional or other session thereof, together with all legal costs, by way of motion to the court; provided the person against whom such motion may be made, hath ten days previous notice thereof. PROVIDED ALSO, That if the person against whom such motion may be made, or his attorney, shall desire a jury to be impanelled, the court shall direct a jury to be immediately charged to try whether he did assume to pay, and whether he hath paid: But the said directors shall not be required to prove that he did so assume, until he shall have first made oath that he did not so assume. And it shall be lawful for the said court to direct judgment to be entered up on the verdict rendered, with costs, and execution shall issue thereupon, returnable to any day of the said session of the General Court, which the said court shall direct.

SECT. III. SO much of the said recited acts of Assembly, as comes within the purview of this act, is hereby repealed.

SECT. IV. PROVIDED ALWAYS, That so much of this act as relates to the Potowmack Company, shall be suspended, until the Legislature of the state of Maryland, shall pass a law to the same effect.

C H A P. XXV.

An ACT for the Preservation of the ENTRIES made for LANDS in the District of Kentucky.

[Pased the 20th of DECEMBER, 1787.]

SECT. I. WHEREAS it has been represented to this General Assembly, that the entry-books now in possession of the county-surveyors respectively, within the district of Kentucky, are from continual use so much worn and defaced, that many entries for lands are scarcely legible, and as the title of many good people of this commonwealth to the lands held by them within the aforesaid district, may eventually depend on their entries for the same;

SECT. II. BE it enacted, That the surveyor of each county within the district aforesaid, shall transcribe in their regular order, into well bound books, all original entries for lands made in his office since the county took place, whereof he is surveyor. AND as it is represented, that the surveyor of Jefferson is in possession of the entry-books, containing the entries made in the county of Kentucky, before the division of the same into the counties of Lincoln, Jefferson, and Fayette.

SECT. III. BE it enacted, That the said surveyor of Jefferson, shall, in like manner, copy all original entries made in the said county of Kentucky, until the division aforesaid took place.

SECT. IV. AND be it further enacted, That the books into which the entries shall be so transcribed, shall be furnished to the surveyor by the county lieutenant of each county respectively, to be by him purchased out of the money which now may or hereafter shall be in his hands, arising from militia fines. And so soon as any surveyor shall have copied such entries as aforesaid, he shall give information thereof to the judges of the supreme court of the said district, who shall, and are hereby authorized and directed, to appoint one or more person or persons, being magistrates in such county, together with such surveyor, carefully to examine the copies so made out, and compare the same with the originals; and shall, together with such surveyor, certify at the end of such book the number of copies of entries therein contained, and that they are faithfully transcribed;

which said book or books shall be by them delivered to the clerk of the supreme court of the said district, to be kept in his office, and shall thereafter be deemed a legal record; and all copies therefrom certified by the said clerk, shall be admitted as evidence in any court of record, in the same manner as if taken from the original entry-book, and certified by the surveyor of the county.

SECT. V. AND be it further enacted, That each surveyor shall be allowed the sum of four-pence halfpenny, for each entry by him copied as aforesaid; for which sum the judges of the supreme court aforesaid, are hereby authorised and required to grant to such surveyor or surveyors, their certificate or certificates, which shall be receivable in payment of all taxes arising in said district.

C H A P. XXVI.

An ACT prescribing the Oaths of Office to JUDGES of the DISTRICT COURTS.

[Pased the 8th of JANUARY, 1788.]

SECTION I. WHEREAS by an act passed the present session of Assembly, intituled "An act establishing district courts," it is enacted that each of the judges, besides the oaths now particularly required, shall take another as judge of the district courts, according to the direction of an "Act for establishing a General Court," but no provision is made for conforming the oath of office to the nature of district courts;

SECT. II. BE it enacted, That all the judges, besides the oaths by law prescribed for their separate departments, shall, as soon as may be, after the commencement of the first recited act, take the oaths prescribed by the act, intituled "An act establishing a General Court," adapting the same to the nature of district courts, to be administered by any court of record, or before a judge or justice thereof, and the taking thereof shall be recorded in some district court. PROVIDED ALWAYS, That any judge may act as a judge of any district court until the next succeeding session of his particular court, before he shall have taken the oath prescribed to him as a judge of such particular court.

SECT. III. SO much of the above recited act, as comes within the purview of this act, shall be, and the same is hereby repealed.

C H A P. XXVII.

An ACT for establishing several new FERRIES.

[Pased the 19th of DECEMBER, 1787.]

SECTION I. BE it enacted by the General Assembly, That public ferries shall be constantly kept at the following places, and rates for passing the same as followeth, that is to say: From the land of Henry Fitzhugh, at the upper end of the town of Frederickburg, across Rappahannock river, to the land of William Fitzhugh on the opposite shore, for a man three pence, and for a horse the same; from the land of Jesse Martin, near the mouth of Crooked run, in the county of Monongalia, across Monongalia river, to James Hord's on the opposite shore, for a man three pence, and for a horse the same; from the land of the said Jesse Martin, near the mouth of Robertson's run, in the county of Monongalia, across Monongalia river to the land of David Scott on the opposite shore, for a man three pence, and for a horse the same; from the land of Charles Lynch, at the lead mines, in the county of Montgomery, across New river to the opposite shore, for a man three pence, and for a horse the same; from the land of Cuthbert Bullitt, in the county of Prince-William, across the mouth of Quautico creek to the opposite shore, for a man six pence, and for a horse the same; from the land of James Cleland, in the county of Monongalia, across Cheat river to the opposite shore, for a man three pence, and for a horse the same; from the land of Andrew Ramsey, in the county of Monongalia, across Cheat river to the land of William Morgan on the opposite shore, for a man three pence, and for a horse the same; from the land of William Morgan, in the county of Monongalia, across Cheat river to the land of Andrew Ramsey, on the opposite shore, for a man three pence, and for a horse the same; from the land of Robert Wood, in the county of Ohio, across Ohio river to the opposite shore, for a man six pence, and for a horse the same; from the land of Joseph Echolls, in the county of Halifax, across Staunton river to the opposite shore, for a man three pence, and for a horse the same; and from the land of John Henderson in the county of Ohio, across Ohio river to the opposite shore in the state of Washington, for a man six pence, and for a horse the same: And for the transportation of wheel carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry-keepers may respectively demand and take the same rates as are by law established at other ferries. If any ferry-keeper shall demand or receive from any person or persons whatsoever, any greater rates than are hereby allowed for the ferrage or carriage of any thing, he shall for every such offence forfeit and pay to the party grieved the ferrage demanded or received, and ten shillings, to be recovered,

with costs, before a justice of the peace of the county where the offence shall be committed.

SECT. II. *AND be it further enacted,* That it shall and may be lawful for the court of the county of Norfolk annually, to let to the highest bidder, the ferries across Elizabeth river, and the branches thereof, taking bond and security for payment of the money; and to apply the same, as it shall be received, towards lessening the levy of the said county.

C H A P. XXVIII.

An ACT to amend the Act, intituled, "An Act appropriating certain public Taxes to the opening a WAGGON ROAD from the State Road to the Mouth of the Little Kanawha, and for other Purposes."

[Passed the 22d of DECEMBER, 1787.]

SECT. I. WHEREAS by an act of the last session of Assembly, certain taxes then due, as well as a proportion of those which would become due in the county of Harrison, were to be appropriated towards opening a wagon road from the State Road to the mouth of the Little Kanawha: AND WHEREAS by an act of the same session, the said county of Harrison was, from and after the first day of May then next following, to be divided, and the county of Randolph taken therefrom; and it is doubted whether the taxes in the county of Randolph are to be paid and appropriated in like manner as those in the said county of Harrison: For removing such doubts,

SECT. II. *BE it enacted by the General Assembly,* That the taxes in the said county of Randolph shall be accounted for, recovered, paid, and appropriated in like manner, and subject to the same conditions and restrictions, as by the said recited act is directed and prescribed for the taxes in the said county of Harrison. AND WHEREAS by the said recited act, certain commissioners were appointed to superintend the opening a wagon-road from Morgan-Town, in the county of Monongalia, to the mouth of Fishing-Creek on the Ohio river; and George Haley, one of the said commissioners, is since dead, and Ebenezer Zane, John Boggs, and Benjamin Davis, have refused to act:

SECT. III. *BE it therefore enacted,* That John Pierpoint, James Cleland, William M'Machan, John Caldwell, Andrew Woods, John Henderson, and George Stricker, shall be, and they are hereby appointed commissioners, in the room of the one that is dead, and those who have refused to act; and shall have the same power and authority as if they had been originally appointed and named in the said act; and shall give bond and security as therein directed. Each of the commissioners for the said counties of Harrison, Monongalia, and Ohio, shall receive five shillings per day for every day he shall be bona fide engaged in laying off the said work, to be paid upon due proof thereof being made before the courts of their respective counties, out of the taxes appropriated for opening the said road, for which the sheriffs shall be allowed in the settlement of their accounts.

C H A P. XXIX.

An ACT to amend the act, intituled "An act to impose certain DUTIES."

[Passed the 8th of JANUARY, 1788.]

SECTION I. *BE it enacted by the General Assembly,* That from and after the passing of this act, brandy imported from France in ships or vessels belonging to any of the citizens of the United Netherlands, or to the citizens or subjects of any power in commercial treaty with the United States, shall be chargeable with no higher duties or imposts thereon on the importation of the same, into this commonwealth, than brandy imported from France in ships or vessels which are owned by the subjects of his Most Christian Majesty, or which are the property of the citizens of this state, or of any of the states in the American union.

SECT. II. *AND be it further enacted,* That all money which hath been received by any naval officer within this commonwealth for duties or imposts, on brandy from France imported since the twentieth day of January, one thousand seven hundred and eighty seven, in any of the ships or vessels owned by the citizens or subjects of any nation in commercial treaty with the United States, shall be repaid to the person who hath paid such duties or imposts, or to his agent or attorney legally authorised to receive the same; and the Governor shall on application to him made, and proof of the payment of such duties or imposts, direct the auditor of public accounts to issue a warrant, for payment thereof, which the

treasurer shall pay out of any money in his hands arising from duties on goods imported into this commonwealth.

C H A P. XXX.

An ACT to regulate the Inspection of FLOUR and BREAD

[Passed the 23d of NOVEMBER, 1787.]

SECT. I. WHEREAS the laws heretofore made for the inspection of flour have been found defective, and it has become necessary to make some regulations for the prevention of frauds in the exportation of bread;

SECT. II. *BE it therefore enacted by the General Assembly,* That one inspector of flour shall be appointed at each of the following places, to wit, Alexandria, Frederickburg, Richmond, Petersburg, West-Point, Newcastle, York, mouth, Port-Royal, Hobbs-Hole, Colchester, Dumfries, Manchester, Osborne, Pokahuntas, Nomonoy, Broadway, Low Point in Surry, Suffolk, Hampshire, South-Quay, Norfolk, Louisville, Morgan's-Town, Clarksburg, Smithfield, Fort Wheeling, Lynchburg, Hanover-Town, and Portsmouth. The course of the several counties in which the places aforesaid are situated, shall, at their first or second court after the end of this present session of the Assembly, and at the courts held in the month of August or September in every year thereafter, nominate and appoint a person of good repute, and who is a skilful judge of the quality of flour, to be inspector of flour at each of the places aforesaid. In case of the death of any person so appointed, or his refusal or neglect to act, the justices of the said counties respectively, or any three of them, shall, as soon as conveniently may be thereafter, meet together and appoint some other person in the room of the one so dead or refusing or neglecting to act, who shall execute the duties of his office until the next court held for the county where such vacancy may have happened; and at such court the justices shall appoint, in manner fore directed, some person to be inspector of flour for the residue of the year. If any of the said courts shall neglect to appoint such inspectors at the times directed by this act, the Governor, with the advice of the Council, may supply such vacancy; and the person so appointed, having taken the oath herein mentioned before a justice of the peace, shall continue in office during the time, and have the same power and authority, as if he had been appointed by the court of the county. All bolted wheat flour and every cask thereof brought to any of the places before mentioned for exportation, from and after the first day of March next, shall be made by the miller or manufacturer thereof, in a chantable and of due fineness, and without any mixture of coarser flour, or of flour of any other grain than wheat. All bread and flour casks which shall be brought to any of the places before mentioned for exportation, after the first day of March next, shall be well made of good seasoned materials, tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three in each upper bilge hoop; and the flour barrels shall be of the following dimensions, to wit, the staves shall be twenty-seven inches in length, and the sides seventeen inches and an half in diameter. Every miller of flour and baker of bread for exportation, shall provide and keep a distinguishable brand mark, which he shall brand every cask of flour and bread, and mark thereon the and nett weight, before the same shall be removed from the place where it is bolted or baked, under the penalty of two shillings and sixpence for every barrel of flour not hooped and nailed as aforesaid, and for every cask of flour or bread so removed and not branded and marked as aforesaid, to be recovered from the miller or baker who shall neglect to comply with the directions of this act, from the person who brings such flour or bread to any of the places aforesaid for sale; and in case the penalty aforesaid shall be recovered from the person bringing the said bread or flour for sale, such person shall and may recover the same from the miller, baker, or bolter from whom such flour or bread was purchased received; provided it appears that he gave notice to such miller, baker, or baker, that he intended to carry the same to one of the places before mentioned for sale or exportation, and that he requested such baker, miller, or bolter to see and brand the said barrels. Every miller and bolter shall put into each cask full quantity of one hundred and ninety-six pounds of flour; and if any one of them shall put a smaller quantity of flour into any cask than is directed by this act, he shall forfeit for the deficiency of every pound under three, sixpence, and for the deficiency of every pound more than three, one shilling. All casks wherein bread shall be packed, shall be weighed and the tare marked thereon; and any person shall put a false or wrong tare on any cask of bread, to the damage of the purchaser, he or she shall forfeit for every cask so falsely tared, six shillings; and the inspector, or his assistants, upon suspicion or at the request of the purchasers, shall, and he is hereby required to unpack any cask of flour or bread, and if there shall be a lesser quantity of flour than is above directed, or the cask wherein bread is packed shall be found to weigh more than is marked thereon, the miller, baker or bolter, as the case may be, shall pay the charges of unpacking and repacking over and above the penalties aforesaid, but otherwise said charges shall be paid by the inspector or by the purchaser, if the trial be made at his request. Every occupier of a mill who shall grind and manufacture wheat into flour and pack the same in barrels, shall make out, subscribe, and deliver to a person authorised and empowered to carry away the said flour, a manifest of gross, tare and nett weight of such flour, and if he shall neglect or refuse so to do, he shall forfeit and pay five shillings for every barrel of flour delivered with

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such manifest. Every baker of bread for exportation shall deliver with the said bread a manifest of the contents thereof with his brand-mark thereon, and his name subscribed thereto, under the penalty of forty shillings for every manifest delivered contrary thereto; and if any cask of bread be found lighter upon trial than is set down in the manifest, he shall forfeit for every pound deficient in the same proportion, as is heretofore directed as to flour. Every cask of flour brought to any of the places beforementioned, to be from thence laden and shipped for exportation, shall be submitted to the view and examination of the inspectors at such place, who shall inspect and try the same by boring through the head with an instrument not exceeding half an inch in diameter to be by him provided for that purpose; and if he shall judge that the same is well packed, and merchantable according to the directions of this act, he shall plug up the hole, and brand the cask in the quarter with the name of the place at which he is inspector with a public brand-mark to be provided for that purpose, and shall also brand and mark the degree of fineness which he shall, on inspection, determine the said flour to be of, which degree shall be distinguished as follows, to wit: Superfine, fine, middling, shipstuff, for which trouble the inspector shall have and receive of the owner of such flour the sum of two pence, and no more for each cask. No inspector shall pass any flour which shall prove on examination to be unmerchantable according to the true intent and meaning of this act; but shall cause the same to be marked on the bilge with the word *condemned*, or secure it for a further examination, if required, which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owner or owners thereof, the same rate and prices as if the same had been passed. When any person shall think himself aggrieved by the judgment, or want of skill in an inspector in rejecting flour as unmerchantable, it shall be lawful for such person to apply to a Justice of the Peace, who shall, at the charge of the complainant, issue a warrant, directed to three indifferent persons well skilled in the manufacture of flour to view and examine the same, which said three persons, having taken the same oath, or affirmation, as by this act is herein after directed to be taken by every inspector of flour, shall carefully view and examine the same, and if they or any two of them, shall pass and declare the same to be merchantable; in such case the inspector shall erase out the word *condemned*, and put such brand on the said flour as they or any two of them shall direct, and shall repay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the cost of such review; and the said inspector for his trouble shall and may receive twopence for each cask by him received in case his judgment shall be confirmed. It shall not be lawful for any person to export, or lade on board of any ship or vessel for exportation out of this state any cask of flour marked *condemned* by an inspector, or to export or lade on board of any ship or vessel for exportation from any port or place within the state any casks or barrels of flour not inspected and branded as aforesaid, on pain of forfeiting fifty shillings for every cask or barrel exported or laden on board of any ship or vessel for exportation.

SECT. III. *PROVIDED* nevertheless, that where any mill for the manufacturing of flour shall be situated on navigable water, below the falls, it shall be lawful for the owner of such mill to require the inspector of flour who resides the nearest thereto, to attend and inspect the flour manufactured by him; and the inspector, or his deputy, is hereby required to inspect and brand all such flour in the same manner, as if such flour had been carried to the place at which he is inspector, and the proprietor may thereupon export the same in like manner, as if it had been inspected at any of the before-mentioned places. Every inspector of flour, before he enters on the execution of his office, shall make oath or affirmation "that he will, without favour, affection, malice, or partiality, carefully inspect all flour brought to him and which he shall be required to examine; that no flour shall be passed or branded by him without his inspecting the same; that he will not brand or cause to be branded, as passed, any cask or casks of flour that do not appear to him to be the best of his skill and judgment, to be sufficiently clean, sweet, and merchantable; that he will mark on all casks of flour the degree thereof, according to the directions of this act; that he will carefully examine the casks in which flour brought for inspection shall be contained, and that he will not pass or brand any such casks, unless they be of such size, goodness, and thickness, as by this act, required." No inspector of flour shall directly or indirectly purchase any flour by him *condemned* nor any other flour whatsoever, other than for his own use, under the penalty of forty shillings for every barrel by him purchased. If any person shall alter the mark stamped on any cask of flour by an inspector, or shall mark or brand any cask of flour which has not been inspected with any mark or brand similar to, or in imitation of, an inspector's mark or brand, or, after an inspector shall have passed any cask of flour as merchantable, shall pack into such cask any other flour, or, after any cask of flour shall be branded *condemned*, shall unpack and repack the same in other casks for exportation, such person shall forfeit and pay the sum of forty shillings for every cask. If the quantity of flour which shall be brought to any of the beforementioned places for inspection shall at any time be so great that the inspector cannot alone examine the same with sufficient dispatch, or, if through sickness, the inspector shall be incapable of discharging the duties of his office, on such occasions it shall be lawful for him to appoint one or more persons of good repute and good judges of the quality of flour to assist him in the execution of his office. Such assistants having taken the oath or affirmation prescribed by this act to be taken by an inspector shall be authorized to inspect and brand any flour in the same man-

ner as the inspector may do. The courts of the several counties in which the beforementioned places are situated may at any time remove from office any inspector of flour for neglect of duty, malfeasance, or corrupt practices, and may supply the vacancy occasioned thereby by appointing another inspector for the residue of the year. The penalties and forfeitures imposed by this act may be recovered by the informer before a single magistrate where the penalty does not exceed twenty five shillings, and where it doth exceed that sum in any court of record within this state, one half to the use of the informer, and the other to the use of the commonwealth. So much of every act of Assembly as comes within the purview of this act, shall be, and is hereby repealed.

C H A P. XXXI.

An ACT to amend the act for appointing COMMISSIONERS to liquidate and settle the expences incurred in two expeditions carried on from the Kentucky District against the neighbouring INDIANS, and for other purposes.

(Passed NOVEMBER 21, 1787.)

SECTION I. **W**HEREAS it hath been represented to the present General Assembly that the powers given to the commissioners by an act of the last session intituled "An act for appointing commissioners to liquidate and settle the expences incurred in two expeditions carried on from the Kentucky district against the neighbouring Indians," do not authorize them to settle all claims for property and supplies necessarily impressed for the troops employed in that service, which it is just and right should be settled and allowed.

SEC. II. BE it therefore enacted, that John Steel, Baker Ewing, and James M'Dowell, gentlemen, be added to the former commissioners, who, or any two of them whereof a former commissioner shall be one, shall have power, and they are hereby required to settle and adjust all claims for property and supplies necessarily impressed, and in their opinion proper for the troops employed in that service, and to grant certificates for the same in manner directed by the said act.

SEC. III. AND be it further enacted, that the said commissioners, or any two of them as aforesaid, shall have power to settle the claims and grant certificates for the pay of the militia employed in, and other necessary expences attending, the defence of the frontiers of the district of Kentucky during the years one thousand seven hundred and eighty six, and one thousand seven hundred and eighty seven. The said commissioners shall in like manner grant certificates for the expences incurred in the removal of the arms and ammunition granted by the last session of Assembly to the district of Kentucky for the defence of the same from Limestone to the town of Lexington, and in removing the lead from the Blockhouse to the town of Danville; all which certificates shall be receivable in taxes, as directed by the above recited act.

SEC. IV. AND be it further enacted, that where it shall appear to the said commissioners that any necessary expenditures of cash have been made by the county lieutenants or other persons authorized by them for the transportation of the said arms and ammunition as aforesaid, the said commissioners shall have power to liquidate and settle the same, and shall grant to such person or persons an order or orders directed to any county lieutenant in the said district having any monies in his hands arising from militia fines, which orders with proper receipts on them of their having been paid shall entitle the person paying the same upon a settlement of his accounts to a credit for the amount thereof in like manner as if the same had been paid into the public treasury.

C H A P. XXXII.

An ACT to amend two acts of Assembly, the one intituled "An act for keeping certain ROADS in REPAIR," the other intituled "An act for opening and straightening certain PUBLIC ROADS.

(Passed DECEMBER 2, 1787.)

SECTION I. **W**HEREAS the two acts of Assembly, one intituled "An act keeping certain roads in repair," and the other "An act for opening and straightening certain public roads," have in many instances proved oppressive in their operation, in exacting tolls from great numbers of people who derive no benefit from the turnpikes; in directing the sum of sixty pounds to be levied annually for three years upon the counties of Fairfax, Loudoun, Berkeley, and Frederick, respectively, for the purpose of repairing certain roads not used by numbers of the inhabitants of the same; in compelling hands to work upon the said roads whose place of abode is at an unreasonable distance from them, and in the extensive and uncontrollable powers vested in the commissioners appointed by the said acts:

SECT. II. FOR remedy whereof, *Be it enacted by the General Assembly*, that all coaches, chariots, stage-wagons, chaises, chairs, and other riding carriages, passing up or down the country to, from, or through the town of Alexandria, and travelling along the back road to the Ford of Great Hunting Creek near Cameron, or along any of the roads between the said back road and Potowmack river, shall pass and repays toll free; unless any such riding-carriage shall also travel along the road leading from George-Town to Alexandria, in which case, such riding carriage shall be subject to the legal toll at the turnpike established on the said George-Town road. And that the riding carriages and other wheel carriages of all and every the inhabitants of the county of Fairfax whose plantation or plantations are so situated that in passing to and from the town of Alexandria, they have no occasion to travel more than one quarter of a mile along the roads leading from the gaps in the blue ridge of mountains to the turnpike established near the said road, nor along the road leading from George-Town to the other turnpike established on the George-Town road, shall pass and repays to and from the said town of Alexandria toll-free, upon a certificate thereof being obtained from any two Justices of the Peace for the said county, describing the plantation or plantations, with the name of the owner or owners entitled to such exemption; which certificates, the Justices of the said county of Fairfax are hereby empowered and required to grant to any person or persons applying for the same, either from their own knowledge, or upon satisfactory proof made to them that the person or persons so applying are legally entitled thereto; and upon the death or removal of the party to whom any such certificate of exemption shall have been granted, a new certificate shall in like manner be granted to the person or persons respectively succeeding to the possession or occupation of the same plantation or plantations. And for the better information of the keepers of the turnpikes, the person or persons respectively obtaining such certificates of exemption, shall lodge them in the hands of the commissioners of the turnpike roads in the said county of Fairfax, or some one of them, who shall cause a proper and distinct list of all such certificates to be entered in books for that purpose, to be kept at each of the turnpikes, and shall return them to the persons to whom they were respectively granted. And to prevent any impositions by the persons applying for such certificates of exemption, as well as deceptions at the turnpikes,

SECT. III. *BE it further enacted*, that the court of the said county of Fairfax shall be, and they are hereby empowered and required, upon complaint made by the commissioners of the turnpike roads for the said county, and ten days previous notice to the person or persons whose certificate or certificates are complained of, to hear and determine such complaint in a summary way, and to set aside and order to be erased from the turnpike-books, any certificate or certificates of exemption, which, upon such complaint, shall appear to have been obtained contrary to the true intent and meaning of this act; but on such complaint, or in any other matter respecting the turnpike roads, no commissioner of the said roads shall sit, or give his opinion as a Justice of the county. And if any person or persons shall pass through the said turnpikes or either of them with any wheel carriage not exempted by virtue of this act, or if any of the inhabitants of the county of Fairfax whose wheel carriages are or shall be exempted by virtue of this act, shall pass through the said turnpikes or either of them with wheel carriages laden with, or carrying the produce or commodities of those who are not so exempted, or shall travel with any wheel-carriage so exempted more than one quarter of a mile in coming from the country to the said town of Alexandria, without paying toll, the person or persons in either case so offending, shall forfeit and pay for every such offence the sum of ten shillings, to be recovered with costs, by warrant before any Justice of the Peace in the said county of Fairfax.

SECT. IV. *AND be it further enacted*, that the road leading from Ashley's gap into the road from Snicker's gap, and intersecting the same near the ford of Little River, in the county of Loudon, shall henceforward be kept in repair, in the same manner, and be subject to the same rules and regulations in every respect, under the authority of the same commissioners as the other turnpike-roads herein before-mentioned.

SECT. VII. *AND be it also enacted*, that the third years levy of sixty pounds directed to be assessed on the counties of Fairfax, Loudon, Berkeley and Frederick, respectively, by the act intituled "An act for keeping certain roads in repair," shall be and the same is hereby remitted, and shall not be levied or assessed upon the property or people of the said counties, or either of them; and no lands shall be compelled to work on any of the said turnpike-roads, whose residence or place of abode is more than three miles from the road to which they have been or shall be allotted to work.

SECT. VIII. *AND be it further enacted*, that the courts of Fairfax, Loudon, and Fauquier counties, at their respective courts on or before the ninth of June next, may, and they are hereby required to, appoint each of them, one other commissioner to be added to those who are named in the said recited act for keeping certain roads in repair, which additional commissioner so appointed shall thenceforward have the same powers, and be subject to the same rules and regulations with the other commissioners of the said turnpike-roads. And for continuing the succession of the said commissioners, upon the death, resignation, or removal of any of them, or of any of those who shall hereafter be appointed, it shall and may be lawful for any or either the county courts of Fairfax, Loudon, Fauquier, Berkeley, or Frederick

respectively, in which such death, resignation, or removal shall happen, and they are hereby respectively required, from time to time, to appoint some other person or persons instead of the commissioner or commissioners so dying, resigning, or removing. The said commissioners heretofore appointed as well as those hereafter to be appointed shall each and every of them take an oath before the court of the county in which they respectively reside "well and truly to discharge the office of a commissioner of the roads according to the best of his judgment, without favour or partiality to any person or persons whatever."

SECT. IX. *AND be it further enacted*, that the commissioners of the said turnpike-roads shall, in the month of June or July annually, settle with Fairfax county court a just and true account upon oath of all their receipts and disbursements according to the directions of the said recited act for keeping certain roads in repair, under the penalty of the sum of two hundred pounds each, to be recovered by action of debt or information in any court of record within the Commonwealth, one half to the use of the informer, and the other half to the use of the college or academy in the town of Alexandria. All the other penalties and forfeitures inflicted by this act, shall be, one half to the use of the informer and the other half to the use of the commissioners of the said turnpike-roads, to be by them applied towards repairing the said roads.

SECT. X. *AND be it further enacted*, that if at any time it shall be necessary for public convenience to turn or alter any part of the before mentioned turnpike-roads, or either of them, the said road-commissioners or any five of them shall meet on that part of any such road so proposed to be turned or altered, giving the persons whose interest may be materially affected thereby, if living within the county, or in any adjoining county, or his or their known attorney or agent within the county, ten days notice of the time, place, and purpose of such meeting, and if a majority of the commissioners so meeting, upon viewing the road, and having regard as well to the inconvenience to individuals, as the convenience to the public, shall be of opinion that such alteration is materially necessary and proper, and the person or persons whose interests may be affected thereby, or their known attorneys or agents being present and not objecting thereto, such alteration shall be made and established; but if the person or persons whose interest may be affected or their known attorneys or agents are not present, or being present object thereto; in either case the said commissioners shall make report upon oath of the conveniences and inconveniences to the best of their judgment attending the same with their opinion thereupon to the next court to be held for the county wherein such alteration or alterations are proposed to be made, and thereupon such court shall take such proceedings therein as are prescribed by the "Act concerning public roads."

SECT. XI. *AND WHEREAS* the commissioners appointed by the "Act for opening and straightening certain public roads," have not yet completed the road from Chester's gap in the county of Culpepper, to the city of Richmond, within the time prescribed by the said act, and it is therefore doubtful whether they can now proceed therein, *BE it further enacted*, that the said commissioners may, and they are hereby empowered to finish and complete the laying off, opening, clearing and establishing the said road from Chester's gap to the city of Richmond, in the same manner, and under the same directions, restrictions, and regulations, as are herein before prescribed in the case of altering the before mentioned turnpike-roads from the gaps in the Blue Ridge of mountains to the town of Alexandria. So much of the said two acts of Assembly, the one intituled "An act for keeping certain roads in repair," and the other intituled "An act for opening and straightening certain public roads," as is contrary to, or comes within the purview of this act, shall be, and is hereby repealed.

C H A P. XXXIII.

An ACT to repeal part of an act for the protection and encouragement of the COMMERCE of NATIONS, acknowledging the Independence of the United States of America.

(Passed December 31. 1787.)

SECT. I. *WHEREAS* the act intituled "An act for the protection and encouragement of the Commerce of Nations, acknowledging the Independence of the United States," is found in its operation to be partial in as much as it authorizes subjects or citizens of foreign nations to institute suits against the citizens of this Commonwealth, and to prosecute them to a decision in a more speedy and summary way, than they have hitherto known or been accustomed to; and it is but just and proper that no such exclusive privilege should longer be continued, *Be it therefore enacted*, that from and after the passing of this act, so much of the said recited act as points out and authorizes the mode of proceeding in suits wherein foreigners are parties shall be, and the same is hereby repealed.

C H A P. XXXIV.

An ACT to repeal so much of all and every act or acts of Assembly as prohibits the recovery of BRITISH DEBTS.

(Passed December 12, 1787.)

SECT. I. WHEREAS it is stipulated by the fourth article of the treaty of peace between the King of Great-Britain and the United States of America in Congress assembled, that creditors on either side shall meet with no lawful impediment in the recovery of the full value in sterling money of all bona-fide debts heretofore contracted; Be it therefore enacted by the General-Assembly, that such of the acts or parts of acts of the Legislature of this Commonwealth, as have prevented or may prevent the recovery of debts due to British subjects, according to the true intent and meaning of the said treaty of peace shall be and are hereby repealed.

SECT. II. PROVIDED, that this act shall be suspended until the Governor with the advice of Council shall, by his Proclamation, notify to this state, that Great Britain hath delivered up to the United States the posts therein now occupied by British troops, which posts were stipulated by treaty to be given up to Congress immediately after the conclusion of peace; and is also taking measures for the further fulfilment of the said treaty by delivering up the negroes belonging to the citizens of this state taken away contrary to the seventh article of the treaty, or by making such compensation for them as shall be satisfactory to Congress.

C H A P. XXXVI.

An ACT Concerning monies paid into the PUBLIC LOAN OFFICE, in payment of BRITISH DEBTS.

(Passed January 3, 1788.)

SECT. I. WHEREAS by an act of the General Assembly entitled "An act for sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties," it is among other things provided, that it shall and may be lawful for any citizen of this Commonwealth owing money to a subject of Great-Britain, to pay the same or any part thereof from time to time as he shall think fit, into the said Loan Office, taking thereout a certificate for the same, in the name of the creditor, with an indorsement under the hand of the Commissioner of the said office, expressing the name of the payer, and shall deliver such certificate to the Governor and Council, whose receipt shall discharge him from so much of the debt, and the Governor and Council shall in like manner lay before the General-Assembly, once in every year, an account of these certificates, specifying the names of the persons by and for whom they were paid, and shall see to the safe keeping of the same, subject to the future direction of the Legislature.

SECT. II. AND WHEREAS it belongs not to the Legislature to decide particular questions, of which the judiciary have cognizance, and it is therefore unfit for them to determine whether the payments so made into the Loan Office as aforesaid, be good or void between the creditor and debtor, but it is expedient to declare to what amount this Commonwealth may be bound for the payments aforesaid, Be it enacted and declared that this Commonwealth shall, at no time nor on any event or contingency be liable to any person or persons whatsoever for any sum on account of the payments aforesaid, other than the value thereof when reduced by the scale of depreciation, established by or other act of the General-Assembly intituled "An act directing the mode of adjusting and settling the payment of certain debts and contracts, and for other purposes," with interest thereon at the rate of six per centum per annum; any law, usage, custom, or any adjudication or construction of the first recited act already made or hereafter to be made notwithstanding.

SECT. III. Provided always, that nothing herein contained shall be construed to affect or prejudice any process, plea or right, to which a citizen debtor would have been entitled against his creditor before the passing of this act, but that all courts of law and equity shall decide on such process, plea and right, in the same manner as if this act had never been made.

SECT. IV. Provided always, and be it further enacted, that question between debtor and creditor respecting any sum of money paid into the public Loan Office, shall be brought before any court in this Commonwealth, during the suspension of the act entituled "An act to repeal so much of all and every act or acts of Assembly as prohibits the recovery of British debts."

C H A P. XXXV.

An ACT to authorize the establishment of FIRE COMPANIES.

(Passed January 7, 1788.)

SECT. I. WHEREAS the danger to which the several towns within this Commonwealth are exposed from fire is chiefly occasioned by the want of Fire-Companies duly organized, and it is necessary that such companies be incorporated, in order to give them their full effect, Be it enacted that it shall be lawful for any number of persons resident within any town, borough, or corporation within this Commonwealth exceeding forty persons to form themselves into a company or companies for the purpose of extinguishing fires who on having their names and subscriptions recorded in the court of the county or corporation where they reside, are hereby authorized to make such rules and regulations as to a majority of the said company or companies may seem proper and necessary for the procuring of engines and other necessary implements working the said engines, and exercising the companies raised. And that all fines and forfeitures for non-attendance or delinquency imposed by the said regulations not exceeding twenty-five shillings, shall be recoverable before a single Magistrate on proof of such delinquency, which said fines and forfeitures shall be applied to the purposes of their institutions.

SECT. II. Provided always, that all bye-laws or rules to be made by virtue of this act, which are contrary to the constitution or laws of the commonwealth, shall be null and void.

C H A P. XXXVII.

An ACT for the punishment of persons guilty of stealing or selling FREE PERSONS as SLAVES.

(Passed January 8, 1788.)

SECT. I. WHEREAS several evil disposed persons have seduced and stolen the children of black and mulatto free persons, and have actually disposed of the persons so seduced or stolen as slaves, and no punishment adequate to such crimes, not being by law provided for such offenders,

SECT. II. BE it enacted, that any person who shall hereafter be guilty of stealing or selling any free person for a slave knowing the person so sold to be free, and thereof shall be lawfully convicted, such person so convicted shall suffer death without benefit of clergy.

C H A P. XXXVIII.

An ACT directing patents to issue upon certain surveys made by RICHARD RIGG, deceased.

(Passed January 8, 1788.)

SECT. I. WHEREAS it is represented that Richard Rigg in his life time, as one of the surveyors of the Right Honorable Thomas Lord Fairfax, in that part of this Commonwealth called and known by the name of the Northern Neck, made a considera-

number of surveys and entered them in a book for that purpose, and had before any plats and certificates thereof were made and returned to the Land Office, the said Richard Rigg departed this life:

SECT. II. AND WHEREAS John M'Coole hath since the death of the said Richard Rigg, made out plats of such surveys from the said books and returned them to the Land Office with the respective fees upon oath, but no grants thereof can legally be issued; for remedy whereof, *Be it enacted by the General Assembly*, that the Register of the Land Office, shall, and he is hereby empowered and required to make grants conformable to the plats of surveys so returned into the Land Office in like manner as if the plats and certificates thereof had been returned to the office in due form by the said Richard Rigg.

C H A P. XXXIX.

An ACT establishing DISTRICT COURTS.

(Passed JANUARY 2, 1788.)

SECTION I. **W**HEREAS the delays inseparable from the present constitution of the General Court, may be often equal to a denial of justice, the expence of the criminal prosecutions are unnecessarily burthensome to the citizens of this commonwealth, violations of the law frequently pass with impunity, from the distance at which witnesses reside from the fixed situation of the said court, and the authority of those laws would be more effectively promulgated by the establishment of district courts.

SECT. II. *Be it therefore enacted by the General Assembly*, that the counties of Henrico, Hanover, Chesterfield, Goochland, and Powhatan, shall compose one district, and that a court shall be held for the same at the city of Richmond, on the first day of April, and the first day of September in every year. That the counties of James City, Charles City, New Kent, Surry, Gloucester, York, Warwick, and Elizabeth City, shall compose another district, and a court shall be held for the same at the city of Williamsburg, in the courthouse of James City county, on the twenty third day of April, and the twenty third day of September in every year. That the counties of Westmoreland, Lancaster, and Northumberland, shall compose another district, and a court shall be held for the same at Northumberland courthouse, on the first day of April, and the first day of September in every year. That the counties of Essex, Middlesex, King and Queen, and King William, shall compose another district, and a court shall be held for the same at King and Queen courthouse, on the twelfth day of April, and the twelfth day of September, in every year. That the counties of Spotsylvania, Fauquier, King George, Stafford, Orange, and Culpeper, shall compose another district, and a court shall be held for the same at Fredericksburg, on the first day of April, and the first day of September, in every year. That the counties of Frederick, Berkeley, Hampshire, Hardy, and Shenandoah, shall compose another district, and a court shall be held for the same at Winchester, on the twenty fifth day of April, and the twenty fifth day of September, in every year. That the counties of Augusta, Rockbridge, Rockingham, and Pendleton, shall compose another district, and a court shall be held for the same at Staunton, on the first day of April, and the first day of September, in every year. That the counties of Albemarle, Louisa, Fluvanna, and Amherst, shall compose another district, and a court shall be held for the same at Charlottesville, on the eighth day of May, and the eighth day of October, in every year. That the counties of Fairfax, Fauquier, Loudon, and Prince William, shall compose another district, and a court shall be held for the same at Dumfries, on the thirteenth day of April, and the thirteenth day of September, in every year. That the counties of Hampshire, Isle of Wight, Princess Anne, Nansemond, and Southampton, shall compose another district, and a court shall be held for the same at Suffolk, on the sixth day of May, and the sixth day of October, in every year. That the counties of Prince George, Sussex, Dinwiddie, and Amelia, shall compose another district, and a court shall be held for the same at Petersburg, on the thirteenth day of April, and the thirteenth day of September, in every year.

SECT. II. AND WHEREAS there is not any courthouse in the town of Petersburg wherein the said court can hold their sessions, and it is necessary to have a place fixed on for holding the said courts, as also for ascertaining the place whereon the courthouse and prison shall be built, *Be it enacted*, that until the public buildings shall be erected, the said court

shall hold their sessions in the house of Robert Armistead, in the said town and that the courthouse and prison be built on the lands of Erasmus Gill in the said town, who is willing to erect the same at his own expence, and that after the same shall be completed, the courts shall be held therein; but in case the said Erasmus Gill, shall refuse to make the necessary publick buildings, the court of the county of Dinwiddie are hereby empowered to fix on the lands of any other person within the said town, whereon the said buildings shall be erected, who may be willing to make the same at their own expence. That the counties of Brunswick, Greensville, Lunenburg, and Mecklenburg, shall compose another district, and a court shall be held for the same at Brunswick courthouse, on the twenty fifth day of April, and the twenty fifth day of September, in every year. That the counties of Prince Edward, Buckingham, Charlotte, Halifax, and Cumberland, shall compose another district and a court shall be held for the same at Prince Edward courthouse, on the first day of April, and the first day of September, in every year. That the counties of Bedford, Campbell, Franklin, Pittsylvania, and Henry, shall compose another district, and a court shall be held for the same at New-London, on the twelfth day of April, and the twelfth day of September, in every year. That the counties of Accomack, and Northampton, shall compose another district, and a court shall be held for the same at Accomack courthouse, on the eighth day of May, and the eighth day of October, in every year. That the counties of Greenbrier and Botetourt, shall compose another district, and a court shall be held for the same at Louisbourg in Greenbrier, and Botetourt courthouse, alternately, on the eighth day of May, and the eighth day of October, in every year, until the proprietor of the Sweet Springs, shall erect a sufficient courthouse and prison, for the purposes of this act, after which time the Sweet Springs shall become the seat of the district court. Each court shall sit, if business require, for eight days successively, Sundays excepted, and no longer, and shall be a court of record. And if any of the said several days shall happen to be Sunday, then the said district courts shall respectively as the case may happen, begin on the succeeding day. The Court of Appeals at their session to be held in April next, or a majority of them shall appoint a clerk, to each of the said District Courts, who shall be removable on conviction on an indictment for a misdemeanor, shall reside and keep his office at the place of holding the court, and shall give bond with security payable to the Governor for the time being, for the faithful performance of his duty, in the penalty of three thousand pounds, to be put in suit at the instance of any party or parties aggrieved, for his, her, or their use. He shall issue all writs, summonses, and other lawful process, which shall bear teste, in his own name, and be returnable to the next court to be holden for his district, and shall act as clerk of the said court.

SECT. III. *And be it further enacted*, that four judges shall be elected by joint ballot of both houses of Assembly, in addition to the present Judges of the General Court, who shall also be Judges of the Court of Appeals, and it shall be the duty of the Judges of the High Court of Appeals, to attend the said courts, allotting among themselves the districts they shall respectively attend, in such manner that the Judges of the High Court of Chancery and Admiralty shall attend the District courts, to be held at Richmond, Petersburg, Brunswick, Suffolk, Northumberland, King and Queen, Williamsburg, and Accomack, and the Judges of the General Court shall attend the District Courts, to be held at Fredericksburg, Dumfries, Winchester, Charlottesville, Staunton, Monongalia, Prince Edward, New London, at Washington and Montgomery alternately, and at the Sweet Springs: Three Judges to be allotted to each district, any two of whom shall constitute a Court.

SECT. IV. *And be it further enacted*, that a tax of six shillings, shall be and the same is hereby imposed on all judgments to be obtained in the District Courts, which shall be paid by the plaintiff to the clerk of the court where such judgment shall be obtained before he shall enter up the same; which sum of six shillings, shall be taxed in the bill of costs, and in all other respects the tax on process in the District Courts shall be the same, and shall be taxed in the bill of costs in like manner as now by law directed concerning process in the General Court. The clerks of the District Courts shall account upon oath for the receipt of the above-mentioned tax of six shillings, upon all judgments to be obtained in their courts respectively, in the same manner as they are directed by law to collect and account for taxes heretofore imposed, and divide the same among the Judges attending such court, taking a receipt from each Judge for the amount so paid, to be deducted out of his salary, which receipt when produced to the Auditor of public accounts shall be a credit for the amount thereof to the clerk producing the same. Each of the Judges, besides the oaths now particularly required, shall take another as Judge of the District Courts, according to the direction of the act intituled "An act for establishing a General Court," and the taking the last mentioned oath, shall enable any person appointed a Judge of either of the Superior Courts, to act as such in the District Courts, and as conservators of the peace throughout this commonwealth. Any Judge who shall sit as a Judge of the District Court, without having taken the last mentioned oath, shall forfeit the sum of five hundred pounds, to be recovered in any court of record, by action of debt or information; one half for the use of the commonwealth, and the other half for the use of the informer. If two Judges should not attend on the first day of any District court, it shall be lawful for one Judge to adjourn such court from day to day, until a court shall be made, if that happen before four of the clock, in the afternoon of the sixth day. If a district court shall not sit in any term, or shall not

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continue to sit the whole term, or before the end of a term shall not have heard and determined all matters ready for their decision, such matters and all others depending in court, shall stand continued to the next succeeding term.

SECT. VI. THE jurisdiction of the said courts respectively, shall be over all persons and in all causes, matters, or things at common law now cognizable in the General Court, and which shall amount to thirty pounds, whether brought before them by original process, by *babeas corpus*, appeal, writ of error, supersedeas, *mandamus*, *certiorari*, to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any other legal ways or means whatsoever; and also all suits now depending in the General Court under that sum. They shall also have the same jurisdiction over controversies concerning mills, wills, roads, and letters of administration, public debtors, whether sheriffs or others, and the recording of deeds for lands, and other property within the district, as the General Court now hath by law, and the said courts shall hear and determine the same. PROVIDED ALSO, that writs of *babeas corpus*, appeal, error, supersedeas, *mandamus*, and *certiorari*, and controversies concerning mills, wills, roads, and letters of administration, shall not be heard or determined by any district court, unless such writ of error, supersedeas, *mandamus*, and *certiorari* relate to some record or proceeding within the said district, or the person praying the *babeas corpus*, or the mills or roads be within the same, or the wills or letters of administration be cognizable by the court of some county within the said district.

SECT. VII. THE judges of the Court of Appeals shall direct the forms of writs from time to time, in such manner as shall seem adviseable; but until an alteration by them made therein, the forms shall be as nearly alike to those now used in the General Court as the nature of district courts will admit. If any writ or process shall be executed so late, that the sheriff or other officer hath not reasonable time to return the same before the day of appearance thereto, and an *alias*, *pluries*, attachment, or other process be awarded thereupon, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, on which there shall be the same proceedings as if it had been returned in due time.

SECT. VIII. IN all actions or suits which may be commenced against the Governor of this commonwealth, any member of the privy council, any of the judges of the superior courts, or the sheriff of any county, during his continuance in office, instead of the ordinary process a summons shall issue to the sheriff or other proper officer, reciting the cause of action, and summoning such defendant to appear and answer the same on the proper return-day in the next district court; and if such defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, an attachment shall be awarded against his estate, and thereafter the proceedings in the suit shall be in like manner as is directed in case of an attachment awarded upon the sheriff's returning *non est inventus* on ordinary process. PROVIDED ALWAYS, that after judgment and the return of a *fieri facias* by the sheriff of that county in which the defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may issue as in other cases. PROVIDED ALSO, that no writ of *capias ad respondentum* shall be issued against any person in any other district than that in which he resides, until a *non est inventus* has been returned in such district, upon a *capias* issued against such defendant in the same suit; and every writ issued contrary thereto, shall be *ipso facto* void, and dismissed on the first calling thereof: PROVIDED NEVERTHELESS, that where two or more persons are or shall be jointly and not severally bound for the performance of any contract, or for the payment of any money or tobacco, by bond, covenant, or otherwise, that it shall and may be lawful to prosecute such persons jointly or severally, in whatever district they or either of them may reside: And provided also, that any person not a resident within this state, nor paying county or parish levies within the same, may be prosecuted in like manner as if this act had never been made.

SECT. IX. IN all actions to recover the penalty for breach of any penal law, not particularly directing special bail to be given in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all other personal actions, except such as shall be herein after particularly mentioned, the plaintiff or his attorney shall, on pain of having his suit dismissed, with costs, endorse on the original writ or subsequent process, the true species of action, that the sheriff to whom the same is directed may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned, the sheriff may take the engagement of an attorney practising in the district court, endorsed upon the writ, that he will appear for the defendant or defendants, and such appearance shall be entered with the clerk in the office on the first day after the end of the court, to which such process is returnable, which is hereby declared to be the appearance-day in all process returnable to any day of the court next preceding. Every attorney failing to enter an appearance according to such engagement, shall forfeit to the plaintiff fifty shillings, for which judgment shall be immediately entered, and execution may issue thereupon. PROVIDED ALWAYS, That any judge of the said court, in actions of trespass, assault and battery, trover and conversion, and in actions on the case, where, upon proper affidavit or affirmation, as the case may be, it shall appear to him proper that the defendant or defendants should give appearance-bail, may, and he is hereby authorised to direct such bail to be taken by endorsement on the original writ or subsequent process; and every sheriff shall govern himself accordingly.

SECT. X. IN all actions of debt, founded on any writing obligatory, bill or

note in writing, for the payment of money or tobacco, all actions of covenant or detinue; in which cases the true species of action shall be endorsed on the writ as before directed, and that appearance-bail is to be required, the sheriff shall return on the writ the name of the bail by him taken, and a copy of the bail-bond to the clerk's office before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the defendant might or would be subject to, if he had appeared and given special bail; and in actions of detinue the bail-piece shall be so changed as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the court may adjudge. And if the sheriff shall not return bail, and the copy of the bail-bond, or the bail returned shall be judged insufficient by the court, and the defendant shall fail to appear and give special bail, if ruled thereto, in such case the sheriff may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance-bail. And if the sheriff depart this life before judgment be confirmed against him, in such case the judgment may be confirmed against his executors or administrators; or if there shall not be a certificate of probate or administration granted, then it may be confirmed against his estate, and a writ of *fieri facias* may in either case be issued; but the plaintiff shall object to the sufficiency of the bail during the sitting of the court next succeeding that to which the writ is returnable, or in the office on the first or second rule-day, and at no time thereafter. And all questions concerning the sufficiency of bail so objected to in the office, shall be determined by the court on the first day of the next succeeding court; and in all cases where the bail shall be judged insufficient, and judgment entered against the sheriff, he shall have the same remedy against the estate of the bail as against the estate of the defendant. Also, that every judgment entered in the office against a defendant and bail, or against a defendant and sheriff, shall be set aside, if the defendant, upon the third day of the succeeding court, shall be allowed to appear without bail, put in good bail, being ruled so to do, or surrender himself in custody, and shall plead to issue immediately; on which third day the court shall regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein. In every case where judgment shall be confirmed against any defendant or defendants and bail, or the sheriff, his executors, administrators, or estate, as aforesaid, the court, upon motion of such bail, or of such sheriff, his executors or administrators, or any other person on behalf of his estate, may order an attachment against the estate of such defendant or defendants, returnable to the next succeeding court; and upon the execution and return of such attachment, the court shall order the estate seized, or so much thereof as will be sufficient to satisfy the judgment and costs, and all costs accruing under the attachment, to be sold as goods taken in execution upon a *fieri facias*, and out of the money such judgment and all costs shall be satisfied, and the surplus, if any, restored to the defendant or defendants when required.

SECT. XI. ANY judge of the said court, when the court is not sitting, or any justice of the peace, may take recognizance of special bail in any action thereon depending, which shall be taken, and shall be transmitted by the person taking the same before the next succeeding court, to the clerk of the said court, to be filed with the papers in such action; and if the plaintiff or his attorney shall except to the sufficiency of bail so taken, notice of such exception shall be given to the defendant or his attorney, at least ten days previous to the day on which such exception shall be taken: And if such bail shall be judged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had as if no such bail had been taken.

SECT. XII. EVERY special bail may surrender the principal before the court where the suit hath been or shall be depending at any time either before or after judgment shall be given, and thereupon the bail shall be discharged, and the defendant or defendants shall be committed to the custody of the sheriff or jailor attending such court, if the plaintiff or his attorney shall desire the same; or such special bail may discharge himself or herself, by surrendering the principal or principals to the sheriff of the county where the original writ was served, and such sheriff shall receive such defendant or defendants, and commit him, her, or them to the jail of his county, and shall give a receipt for the body or bodies of such defendant or defendants, which shall be by the bail forthwith transmitted to the clerk of the county where the suit is or was depending. When such render after judgment shall be to the sheriff, he shall keep such defendant or defendants in his custody in the same manner, and subject to the like rules, as are provided for debtors committed in execution during the space of twenty days, unless the creditor, his attorney or agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such render to the creditor, his attorney or agent; and if within the said twenty days such creditor, his attorney or agent, shall not in writing charge the debtor or debtors in execution, he, she, or they shall be forthwith discharged out of custody; but the plaintiff or plaintiffs may nevertheless afterwards sue out any legal execution against such debtor or debtors.

SECT. XIII. WHEN the sheriff or other proper officer shall return on any original or mesne process, that he hath taken the body of any defendant and committed him to prison for want of appearance-bail, the plaintiff may proceed, and the defendant make his defence in like manner as if his appearance-bail had been entered and accepted; but such defendant shall not be discharged out of custody until he shall put in good bail, or the plaintiff shall be ruled by the court to accept an appearance without bail; and where any defendant, after appearance entered, shall be confined in prison, the plaintiff may file his declaration, give a rule to plead, and deliver copies of such declaration and rule to the defendant, or his

attorney; and if the defendant shall fail to enter his plea within two months after receiving such declaration and notice, the plaintiff may have his judgment by default, as in other cases.

SECT. XIV. RULES shall be monthly holden in the clerk's-office of each district, beginning the day after the rising of each court.

SECT. XV. WHERE the sheriff or other proper officer shall return on any writ of *capias* to answer in any civil action, that the defendant is not found within his bailiwick, the plaintiff may either sue out an *alias* or a *pluries capias*, until the defendant shall be arrested, or a *testatum capias*, where he shall be removed into another county, or may, at his election, sue out an attachment against the estate of the defendant, to force an appearance; and if the sheriff or other officer shall return that he hath attached any goods, and the defendant shall not appear and replevy the same, by entering his appearance and giving special bail, in case he shall be ruled so to do, the plaintiff shall file his declaration, and be entitled to a Judgment for his debt, or damages, and costs, which judgment shall be final in all actions of debt founded on any specialty, bill or note in writing, ascertaining the demand; and in other cases, the damages shall be settled by a jury sworn to enquire thereof. The goods attached shall remain in the hands of the officer till such final judgment be entered, and then be sold in the same manner as goods taken upon a *fieri facias*; and if the judgment shall not be thereby satisfied, the plaintiff may sue out execution for the residue: and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the defendant.

SECT. XVI. ON the return of the *pluries*, that the defendant is not to be found, the court, instead of the process to outlawry formerly used, may order a proclamation to be issued, warning the defendant to appear at a certain day therein named, or that judgment will be rendered against him; which proclamation shall be published on three successive court-days at the door of the court-house of the county to which the last process was directed, and also three times in the Virginia Gazette; and if the defendant fails to appear pursuant to such proclamation, the same proceedings shall be had, and the same judgment given as in other cases of default.

SECT. XVII. THE plaintiff shall file his declaration in the clerk's-office at the next such succeeding rule-day after the defendant shall have entered his appearance, or the defendant may then enter a rule for the plaintiff to declare, which if he shall fail or neglect to do at the succeeding rule-day, or shall at any time fail to prosecute his suit, he shall be nonsuited, and pay to the defendant or tenant, besides his costs, one hundred and fifty pounds of tobacco, where his place of abode is at the distance of twenty miles or under from the place of holding the district court, and where it is more, five pounds of tobacco for every mile above twenty.

SECT. XVIII. ONE month after the plaintiff hath filed his declaration, he may give a rule to plead with the clerk, and if the defendant shall not plead accordingly at the expiration of such rule, the plaintiff may enter judgment by default for his debt or damages and costs.

SECT. XIX. ALL rules to declare, plead, reply, rejoin, or for other proceedings, shall be given regularly from month to month, shall be entered in a book to be kept for that purpose, and shall be out on the succeeding rule-day.

SECT. XX. ALL judgments by default for want of an appearance, or special bail, or pleas as aforesaid, and non-suits or dismissions obtained in the office, and not set aside at the third day of the succeeding district court, shall be entered by the clerk as of that day, which judgment shall be final in actions of debt founded on any specialty, bill, or note in writing ascertaining the demand; and in all other cases the damages shall be ascertained by a jury, to be impanelled and sworn to enquire thereof, as is herein after directed.

SECT. XXI. NO plea in abatement, or of *non est factum*, shall be admitted or received if the defendant be not an executor or administrator, unless the party offering the same shall prove the truth thereof by affidavit or affirmation, as the case may be; and where a plea in abatement shall upon argument be judged insufficient, the plaintiff shall recover full costs to the time of over-ruling such plea, a lawyer's fee only excepted.

SECT. XXII. THE plaintiff in replevin, and the defendant in all other actions, may plead as many several matters, whether of law or fact, as he shall think necessary for his defence.

SECT. XXIII. BEFORE every district court the clerk shall enter in a particular docket all such causes (and those only) in which an issue is to be tried, or enquiry of damages to be made, or a special verdict, case agreed, demurrer, or other matter of law is to be argued, in the same order as they stand in the course of proceeding, setting as near as may be an equal number of causes to each day.

SECT. XXIV. IN all cases where witnesses are required to attend the district court, a summons shall be issued by the clerk, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned.

SECT. XXV. WHEN any witness shall be about to depart the country, or shall be out of the commonwealth, or by age, sickness, or otherwise, shall be unable to attend the court, upon affidavit thereof, or on a certificate from any

justice of the peace, the court, when they are sitting, or the clerk in vacation, may, on request of either party, award a commission for taking the deposition of such witness, *de bene esse*, to be read as evidence at the trial, in case the witness shall be unable to attend; but the party obtaining such commission shall give reasonable notice to the other party of the time and place of taking the deposition, otherwise the same shall be void.

SECT. XXVI. IF any party in a suit at common law shall make oath, that he verily believes his claim or defence, as the case may be, or a material point thereof, depends on a single witness, the court, when sitting, or the clerk in vacation, may award a commission to take the deposition of such witness, *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case giving reasonable notice of the time and place of taking such deposition to the adverse party.

SECT. XXVII. IF any person summoned as a witness, and attending the court or the commissioners to take his or her deposition as aforesaid, shall refuse to give evidence upon oath or affirmation, as the case may be, to the best of his or her knowledge, every person so refusing shall be committed to prison either by the court or commissioners, there to remain without bail or mainprise until he or she shall give such evidence.

SECT. XXVIII. NO person convicted of perjury shall be capable of being a witness in any case, nor shall any negro, mulatto, or Indian be admitted to give evidence but against or between negroes, mulattoes, or Indians.

SECT. XXIX. IF any person summoned as a witness to attend the district court, shall fail to attend accordingly, they shall fine such person five pounds, or one thousand pounds of tobacco, at the option of the party, to the use of the party for whom such witness was summoned; and the witness so failing, shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness; but if sufficient cause of his or her inability to attend be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure.

SECT. XXX. WITNESSES shall be privileged from arrests in all cases during their attendance at the district court, coming to and returning from thence, allowing one day for every twenty miles from their places of abode; and all such arrests shall be void.

SECT. XXXI. EVERY witness summoned and attending the district court shall be paid by the party at whose suit the summons issued, two pounds of tobacco, or three-pence per mile for travelling to the place of attendance, and the same for returning, besides ferriages, and sixty pounds of tobacco, or seven shillings and sixpence, per day, for his attendance; which allowance shall be entered by the clerk of course, except where disputes arise concerning the same, and then such disputes shall be determined by the court.

SECT. XXXII. INTERPRETERS may be sworn truly to interpret, when necessary.

SECT. XXXIII. AND the court shall have power to try all issues, and enquire of damages by a jury in all causes before them, and to determine all questions concerning the legality of evidence, and other matters of law which may arise, for which trial the court shall cause the sheriff attending them to impanel and return jurors of the by-standers, qualified as the law directs concerning the General Court, to be sworn well and truly to try the issue joined, or to enquire of damages, as the case may be, according to the evidence.

SECT. XXXIV. FOR good cause, which shall be entered of record, and may be enquired into on a writ of error, the court may discharge a juror without the consent of the parties.

SECT. XXXV. SPECIAL juries and juries *de medietate lingue*, may be directed by the court to be summoned.

SECT. XXXVI. JURORS knowing any thing relative to the point in issue, shall disclose the same in open court.

SECT. XXXVII. ANY juror guilty of a contempt to the court, shall be fined by the court any sum not exceeding ten pounds.

SECT. XXXVIII. JURIES may separate with the leave of the court.

SECT. XXXIX. PAPERS read in evidence, though not under seal, may be carried from the bar by the jury.

SECT. XL. NO sheriff shall converse with a juror but by order of the court.

SECT. XLI. THE qualification of jurors shall be the same as in the General Court.

SECT. XLII. THE fee for summoning a jury shall be fifty pounds of tobacco, or six shillings and three-pence, to be taxed in the bill of costs.

SECT. XLIII. EVERY person desirous of suffering a nonsuit on trial, shall be barred therefrom, unless he do so before the jury retire from the bar.

SECT. XLIV. IF in detinue the verdict should omit price or value, the court may at any time award a writ of enquiry to ascertain the same.

SECT. XLV. IF on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error, but the plaintiff shall be barred of his title to the things omitted.

SECT. XLVI. WHERE there are several counts, one of which is faulty, and entire damages be given, the verdict shall be good; but the defendant may apply to the court to instruct the jury to disregard such faulty count.

SECT. XLVII. NOT more than two new trials shall be granted to the same party in one cause.

SECT. XLVIII. FINAL judgment shall be given in all cases in the district court.

SECT. XLIX. IF in detinue price or value be omitted, the court may award at any time a writ of enquiry to ascertain the same.

SECT. L. A judgment on confession shall be equal to a release of errors.

SECT. LI. THE statutes of Jeofails which were passed prior to the year one thousand seven hundred and fifty-three, are declared to be in force; and no discontinuance shall be for a failure to hold a court.

SECT. LII. IN all judgments for plaintiff or defendant, the clerk shall allow a lawyer's fee in the bill of costs, if the party employed one; which fee in real, personal, or mixed actions, where the title or bounds of land shall or may come in question, shall be thirty shillings, or two hundred and forty pounds of tobacco; and in all other causes fifteen shillings, or one hundred and twenty pounds of tobacco, at the election of the party paying.

SECT. LIII. THERE shall not be allowed in the bill of costs the charge of more than three witnesses for the proof of any one particular fact.

SECT. LIV. THE laws of costs shall not be interpreted as penal laws.

SECT. LV. THE district courts shall possess the same power over costs as the General Court now possesses.

SECT. LVI. EXECUTIONS shall issue to any sheriff or coroner from the clerk of the district courts, and be returnable to the first day thereof.

SECT. LVII. THE courts shall hear and determine motions against sheriffs in all cases, and according to the rules prescribed by law.

SECT. LVIII. AN execution, writ or other process, appearing to be duly served in other respects; shall not be deemed void, although it be not directed to any sheriff.

SECT. LIX. NOTICE on replevy-bonds shall be good if given to the party in person, or delivered in writing to any free person above the age of sixteen years, who shall be a member of the family of the obligor, and shall be informed of the purport of such notice, or left at some public place at the dwelling house or other known place of residence of such obligor.

SECT. LX. IF a replevy-bond be quashed as faulty, the sheriff taking the same shall be at all times liable for damages to the party injured, or his representatives.

SECT. LXI. IF a *distringas* issue in detinue, the court for good cause shewn may direct it to be superseded so far as it respects the specific thing, and to be executed for the alternative price or value only, if fixed in the judgment, or to be fixed by a writ of enquiry.

SECT. LXII. GRAND juries shall be summoned to appear on the first day of every court according to the qualifications of the General Court, and shall present offences committed within the district.

SECT. LXIII. THE district court to be held as aforesaid shall have full power to hear and determine, all treasons, murders, felonies, and other crimes and misdemeanors which shall be brought before them.

SECT. LXIV. WHEN any person, not being a slave, shall be charged before a justice of the peace with any criminal offence which, in the opinion of such justice, ought to be examined into by the county court, the said justice shall take the recognizance of all material witnesses to appear before such court, and immediately by his warrant commit the person so charged to the county jail, and moreover shall issue his warrant to the sheriff of the county requiring him to summon the justices of the county to meet at their court-house on a certain day, not less than five nor more than ten days after the date thereof, to hold a court for the examination of the fact; which court shall consider whether, as the case may appear to them, the prisoner may be discharged from further prosecution, may be tried in the county, or must be tried in the district court, and if they shall be of opinion that the fact may be tried in the county, the prisoner shall be bound over to the next grand jury to be held for that county for trial, or upon refusing to give sufficient bail, shall be remanded to the county jail, there to remain until such court, or until he or she shall be bailed; but if they shall be of opinion that the prisoner ought to be tried in the district court, they shall take the depositions of the witnesses, and bind such as they shall think proper by recognizance to appear and give evidence against such criminal at his trial, and having remanded the prisoner to jail, any two of the justices, one being of the quorum, by warrant under their hands and seals, shall direct the sheriff or his deputy to remove the prisoner and commit him or her to the district jail, there to be safely kept until he or she shall be discharged

by due course of law; by virtue of which warrant the sheriff, as soon as may be, shall remove the prisoner and deliver him or her with the warrant to the keeper of the district jail, who shall receive and safely keep him or her accordingly. And for enabling the sheriff safely to convey and deliver such prisoner, the said two justices by their warrant shall empower him, as well within his county as without, to impress such and so many men, horses, and boats as shall be necessary for the guard and safe conveyance of the prisoner, proceeding therein as the law may direct in cases of impressing on other occasions; and all persons are to pay due obedience to such warrant. PROVIDED, that if such persons shall, in the opinion of the court be bailable by law, he or she shall not be removed within twenty days after the examining court, but shall and may be admitted to bail before any justice of the same county within that time, or at any time afterwards before any judge of the General Court.

SECT. LXV. WHEN any person shall be so removed to be tried for treason or felony, the clerk of the county from whence the prisoner is removed shall, immediately after the court held for his or her examination, issue a writ of *venire facias* to the sheriff of the county, commanding him to summon twelve good and lawful men, being freeholders of the county, residing as near as may be to the place where the fact is alledged to have been committed, to come before the district court on the first day of its next session, and return a panel of their names; which freeholders, or so many of them as shall appear, not being challenged, together with so many other good and lawful freeholders of the by-standers as will make up the number twelve, shall be a lawful jury for the trial of such prisoner.

SECT. LXVI. EVERY venire man summoned and attending the district court, shall have the same allowance for travelling and attendance as is herein before provided for witnesses, to be paid by the public.

SECT. LXVII. IF any person summoned as a venire man shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next district court, they may fine every such person, not exceeding forty shillings, or four hundred pounds of tobacco, for the use of the commonwealth.

SECT. LXVIII. IF a prisoner shall desire any witnesses to be summoned for him or her to appear either at the examining court, or on the trial at the district court, the clerk of the said court, or of the county court, as the case may be, shall issue subpoenas for such witnesses, who being summoned and attending, shall have the like allowance for travelling and attendance, and be subject to the same penalty for failing to attend, as is provided for witnesses in civil causes.

SECT. LXIX. THE keeper of the district jail by order of any two justices of his county, may impress guards for the safe keeping of all prisoners in his custody, to be paid by the public.

SECT. LXX. THE fee to the sheriff of the county and to the district jailor for keeping and dieting any such prisoner, shall be one shilling per day, and no more,

SECT. LXXI. WHERE the prisoner shall be convicted, and hath estate sufficient to pay the charges of prosecution, the whole shall be paid out of such estate, and the public only made chargeable where there is no such estate, or not sufficient to be found.

SECT. LXXII. THE sheriff for the time being of the county, in which the district court is held, shall before every meeting of the district court, summon twenty-four freeholders of this commonwealth, qualified as the laws require, for grand jurors, to appear at the succeeding district court on the first day thereof, which the said sheriff is hereby empowered to do, as well without his county as within the same; and the said twenty-four men, or any sixteen of them, shall be a grand jury, and shall enquire of, and present, all treasons, murders, felonies, or other misdemeanors whatever, which shall have been committed or done within this commonwealth; and upon any indictment for a capital offence, being found by a grand jury to be true, against any person or persons, the judges shall cause such person or persons to be immediately arraigned and tried by a petit jury, summoned as herein before directed, and he or they being found guilty, pass judgment as the laws direct, and thereupon award execution; and if the prisoner shall be found not guilty, to acquit him or her of the charge. PROVIDED, that in all trials, the defendant shall, on petition, be allowed counsel; and that when sentence of death shall be passed upon any prisoner, there shall be one calendar month at least between the judgment and execution.

SECT. LXXIII. NO grand jury shall make any presentment of their own knowledge, upon information of fewer than two of their own body, nor where the penalty inflicted by law is less than twenty shillings, or two hundred pounds of tobacco.

SECT. LXXIV. EVERY person summoned to appear on a grand jury, and failing to attend, not having a reasonable excuse, shall be fined by the court, not exceeding four hundred pounds of tobacco, to the use of the commonwealth.

SECT. LXXV. UPON presentment made by the grand jury of an offence not capital, the court shall order the clerk to issue a summons, or other proper process, against the person or persons presented, to appear and answer such presentment at the next court; and thereupon hear and determine the same according to law.

SECT. LXXVI. THE clerk of the district court shall, in a book by him kept for that purpose, enter the names of all the venire men and witnesses who

attend for the trial of criminals at such court, the number of days each shall attend, the ferries they shall have crossed, and the distances they shall have travelled on that occasion, and shall give certificates for the same, which shall be paid in the manner directed by law.

SECT. LXXVII. THE keeper of the district jail shall constantly attend the said court, and execute the command of the court from time to time, and take or receive into his custody all persons by the court to him committed on original or mesne process, or in execution in any civil suit, or for any contempt of the court, and him or them safely keep, until thence discharged by due course of law; and may demand and receive of every such prisoner the legal fees for diet and care; but where such prisoner is so poor as not to be able to subsist him or herself in prison, the jailor shall be allowed by the public one shilling per day for the maintenance of every such poor prisoner; and no security shall be demanded of him or her, nor shall he or she be detained for such prison-fees.

SECT. LXVIII. AND the jailor, during his continuance in office, shall be exempted from serving in the militia and on juries, and shall have such allowance over and above the fees, as by the General Assembly shall be thought reasonable.

SECT. LXXIX. THE court may adjourn any matter of law to the Court of Appeals, or any party thinking himself aggrieved by the judgment of the district court, may appeal thereupon as of right, or obtain a writ of error thereto from the Court of Appeals, not of right, but at the discretion of the court.

SECT. LXXX. BONDS shall be required according to the act constituting the Court of Appeals, except when it may be just to dispense with the same.

SECT. LXXXI. BOND and sufficient security given by any party, where there are several obtaining the writ of error or appeal, shall be sufficient.

SECT. LXXXII. ON an adjournment of a question or writ of error, the same proceedings shall be had as in cases heretofore going from the General Court.

SECT. LXXXIII. THE sheriff of the county in which the court sits shall be an officer thereof, and as such perform the duties now performed by the sheriff of Henrico in and concerning the General Court.

SECT. LXXXIV. THE court may appoint a cryer, who shall hold his office during good behaviour, and be entitled to a reasonable allowance for his services, *per diem*, to be certified by the said court to the auditor for his warrant of payment.

SECT. LXXXV. THE clerk's fees shall be the same with those in the county courts for similar services, and for all other services the same as those of the clerk of the General Court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of the clerk of the General Court now are.

SECT. LXXXVI. WHEN any cause shall be finally determined, the clerk of the district court shall enter all the pleadings and papers filed as evidence therein, and the judgment thereupon, so as to make a complete record thereof; and those wherein the title of lands is determined, shall be entered in a separate book to be kept for that purpose.

SECT. LXXXVII. FOR preventing errors in entering up the judgments of said courts, the proceedings of every day shall be drawn at large by the clerk, against the next sitting of the court, when the same shall be read in open court, and such corrections as are necessary being made therein, they shall be signed by the presiding judge, and carefully preserved among the records.

SECT. LXXXVIII. ON the last day of each court, the proceedings therein shall be drawn up, read, corrected, signed, and preserved as aforesaid.

SECT. LXXXIX. THE attorney general shall provide deputies, to be approved by the Executive, to act in those courts which he may not himself attend.

SECT. XC. NO writ of error or supersedeas shall be granted in any case, until a final judgment shall be given in the county or other inferior court.

SECT. XCI. THE party praying a writ of supersedeas, shall petition the district court for the same, pointing out the error he means to assign in the proceedings, and procure some attorney practising in the district court, to certify that, in his opinion, there is sufficient matter of error for reversing the judgment; whereupon the court in their session, or any two judges of the Court of Appeals in vacation, may order such writ to be issued, or reject the petition, as to them shall seem just; but no supersedeas shall be issued in any case, except such, as in respect to its value or nature, would have admitted of an appeal.

SECT. XCII. WHERE any person or persons, body politic or corporate, shall think themselves aggrieved by the judgment or sentence of any county court, or court of hustings, in any action, suit, or contest whatever, where the debt or damages, or other thing recovered or claimed in such suit, exclusive of the costs, shall be of the value of ten pounds, or two thousand pounds of tobacco, or where the title or bounds of land shall be drawn in question, or the contest shall be concerning mills, roads, the probate of wills, or certificates for obtaining administration, such person or persons, body politic or corporate, may enter an appeal

from such judgment or sentence to the first day of the next court of the district in which such county is.

SECT. XCIII. WHERE the defendant in any personal action appeals, if the judgment be affirmed, the damages, besides costs, shall be ten *per centum per annum* upon the principal sum and costs recovered in the inferior court, in satisfaction of all damages or interest.

SECT. XCIV. IN real or mixed actions the damages shall be ten pounds, or two thousand pounds of tobacco, besides costs; and where the plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probate of wills or certificates for administration, if the sentence of the inferior court be affirmed, the party appealing shall pay to the other all costs.

SECT. XCV. WRITS of error shall not be sued out of the district courts to judgments of inferior courts, but with leave of the court, upon motion of the party deferring the same, and ten days previous notice thereof given in writing to the adverse party.

SECT. XCVI. BEFORE the issuing of a writ of error or supersedeas, the party praying the same shall enter into bond, with sufficient security, in a penalty to be fixed by the discretion of the court, with condition to satisfy and pay the amount of the recovery in the county or other inferior court, and all costs and damages awarded by the district court, in case the judgment or sentence be affirmed.

SECT. XCVII. IF upon hearing any writ of error or supersedeas, the judgment of the inferior court be reversed, the district court shall enter such judgment thereupon as ought to have been entered in the inferior court.

SECT. XCVIII. IF any person or persons shall desire to remove any suit depending in any inferior court into the district court, provided the same be originally cognizable therein, a *certiorari* for such removal may be granted by the district court, for good cause shewn upon motion, and ten days notice thereof given in writing to the adverse party; or in vacation, the party desiring such writ shall, by petition to the judges of the High Court of Appeals, set forth his or her reasons, and make oath before a magistrate to the truth of the allegations of such petition; whereupon any two judges of the said court may, under their hands, order the *certiorari* to issue, and direct the penalty of the bond to be taken previous thereto, or may reject such petition, as to them shall seem just; provided, that ten days previous notice of the time and place of applying for such writ be given in writing to the adverse party; upon which order of the judges, the clerk shall issue the *certiorari*.

SECT. XCIX. BONDS to be given in court for writs of error, supersedeas, *certiorari*, or any other cause, shall be valid and sufficient, if given by a responsible person, and security, although the party interested in the event of the suit be not an obligor.

SECT. C. ON writs of *seire facias* for renewal of judgments, no judgment shall be rendered on the return of two *nibils*, unless the defendant reside in the district, or unless he be absent from the commonwealth, and have no known attorney within the same. PROVIDED, that the party shall enter into bond with sufficient security, in the penalty so directed, with condition for satisfying all money or tobacco, and costs, which shall be recovered against the party in such suit; but if any suit so removed by writ of *certiorari* shall be remanded to the inferior court by writ of *procedendo* or otherwise, such cause shall not afterwards be removed to the district court before judgment shall be given therein in the inferior court.

SECT. CI. THE clerk of the district courts shall carefully preserve all such petitions for writs of *certiorari*, with the affidavits thereto, in the office; and if any person in such affidavit shall make a false oath, and be thereof convicted, upon a prosecution commenced within twelve months after the offence committed, such offender shall suffer the pains and penalties directed for wilful and corrupt perjury.

SECT. CII. NO supersedeas or writ of error shall be granted to any judgment in the district or county, or other inferior court, after the expiration of twelve months from and after the date thereof.

SECT. CIII. WRITS of *habeas corpus* may be granted without a seal, purposing in other respects the act, intituled "An act directing the mode of suing out and prosecuting writs of *habeas corpus*."

SECT. CIV. THE sessions of the High Court of Appeals shall in future commence on the twenty ninth day of May, and the twenty ninth day of October, in every year; or when either of those days may happen to be Sunday, then on the Monday following, and use the same jurisdiction over the district courts as it has heretofore exercised over the General Court; and shall moreover establish rules of practice to be observed at the district courts, provided the same be in support of, and not contrary to this act.

SECT. CV. THE sessions of the High Court of Chancery shall hereafter commence on the thirteenth day of June, and on the thirteenth day of December, in every year; or when either of those days may happen to be Sunday, then on the Monday following.

SECT. CVI. THE sessions of the General Court shall hereafter commence on

the twenty-fourth day of May, and on the twenty-fourth day of October in every year; and when either of those days may happen to be Sunday, then on the Monday following, and shall sit six judicial days successively each time, unless the business depending before them be sooner dispatched.

SECT. CVII. AND that henceforth all executions, or other process issuing from the General Court, shall be made returnable to the first day of the said court: and that writs of *scire facias* may issue from and be tried in the said General Court on all judgments which heretofore have been or hereafter may be obtained therein; and may enter up judgments against any sheriff, deputy sheriff, or coroner, for all monies received by them upon any execution issued, or which may issue from the said court, and to award execution upon all replevy bonds, or bonds taken to see goods forth coming upon any execution which has issued or may hereafter issue from the said court; any thing in this act to the contrary notwithstanding.

SECT. CVIII. THE said court, while in session, is hereby authorized and required, without fee or reward, to examine into the fitness and capacity of such as may apply for license to practice law in the superior or inferior courts of this commonwealth; and without the approbation of the said court, no person, who is not licensed at the passing of this act, shall be admitted to practise; the judges shall be governed in the examination by the rules prescribed by an act, intituled "An act regulating the practice of attorneys."

SECT. CIX. But the said court shall exercise no power, jurisdiction or authority, which by this act is given to the district courts or its judges; any law to the contrary notwithstanding.

SECT. CX. The judges of the district courts shall have authority to superintend and regulate the jails of the counties where their sessions are to be holden, in the same manner that the General Court might be etofore regulate and superintend the public jail.

SECT. CXI. The jailor in the said counties shall also be equally amenable to the judges of the district court as the keeper of the public jail has been to the judges of the General Court; and the several counties in which the district courts are established, shall defray all necessary expences of erecting, repairing, and keeping in repair proper jails and court-houses.

SECT. CXII. All the penalties hereby inflicted, and not otherwise appropriated, shall be, one moiety to the use of the commonwealth, and disposed of as the General Assembly shall direct, and the other moiety to the informer, and be recovered by action of debt or information in any court of record where the same is cognizable; and where fines shall be laid by the district court on any person or persons for not attending as jurymen, the clerks shall annually before the last day of January, transmit to the sheriff of each county a list of all such fines, and all others imposed, to the use of the commonwealth, by the district courts, on persons residing in the county; and such sheriff shall collect and levy the same in like manner as is provided for county levies, and account for and pay the money, deducting five per centum for commission, and also insolvents, to the treasurer of this commonwealth, on or before the first day of September, or the solicitor may recover the same with costs, by motion in the district court, on ten days previous notice given in writing of such motion: And the clerks of the district courts shall deliver copies of all lists so sent to the sheriffs to the solicitor, to enable him to call such sheriffs to account.

SECT. CXIII. Replevin bonds may be given by a responsible person, and a security in the clerk's office, or to the sheriff before seizure; in the former of which cases the clerk shall take a fee of five shillings only, in the latter the sheriff shall take a fee of five shillings only.

SECT. CXIV. The causes depending in the General Court on the first day of January, in the year one thousand seven hundred and eighty-nine, shall be arranged, by the clerk thereof, according to the districts herein described, taking for his rule the county in which the original or other writ may have been executed, or from which judgment shall have been removed, and with the papers therein delivered by him to the clerks of the different districts hereby established, together with a state of the costs which may have accrued in each suit to the time of such delivery. And the counsel then retained in such suits shall be answerable for the prosecution and defence of the same, as the case may be.

SECT. CXV. All laws whatsoever contrary to the purview hereof, and especially those vesting the General Court with powers similar to those now given to the district courts, shall be, and the same are hereby repealed.

SECT. CXVI. This act shall take effect and be in force from and after the first day of July, in the year of our Lord one thousand seven hundred and eighty eight, and not before.

C H A P. XL.

An ACT for the more speedy recovery of DEBTS due to this COMMONWEALTH.

Passed JANUARY the 7th, 1788.

SECTION I. BE it enacted by the General Assembly, That lands and tenements shall and may by virtue of writs of *fieri facias* be taken and sold in satisfaction of all judgments to be hereafter obtained on behalf of the commonwealth against any sheriff, coroner, or other public collector, or against his or their security or securities, Provided, that the same shall not extend to any such security or securities who shall have become so before the passing of this act.

SECT. II. EVERY judgment obtained against any sheriff, coroner, or other public collector shall bind the property of the lands and tenements of such public debtor from the date thereof.

SECT. III. When the goods and chattels taken in execution to satisfy a judgment of the commonwealth by virtue of a *fieri facias*, shall not in the opinion of the officer levying the same be sufficient to satisfy the debt with damages and costs, the sheriff or other officer shall at the same time give public notice at the churches, and meeting-houses, if any there be, and court-house of his county on the next court day, and shall moreover give notice to the owner if he be in the county, or otherwise to his agent, if any such be known, at some time appointed in the notice, not less than ninety nor more than ninety six days from the time of levying the execution, that the said lands and tenements will be exposed to sale by auction on the premises, or at such other place in the county as the owner shall by writing under his hand delivered to the officer direct.

SECT. IV. If the public debtor against whom a judgment shall be entered have several parcels of land which lie in one and the same county, he or his agent may by writing under his hand at any time before the day of sale, require the sheriff or officer to whom a writ of *fieri facias* upon the judgment shall be directed to make the debt or damages and costs of such of the said parcels of land as the owner or his agent shall think proper; and if the parcels lie in different counties, the clerk shall and may at the like request in writing direct the *fieri facias* to the sheriff or officer of any county which the party or his agent, making oath or solemn affirmation that he hath lands there, shall particularly mention at any time before the writ shall be delivered to the officer. And if the debt, damages and costs be made of any other parcel of land, or of land lying in any other county than that mentioned in such written requisition, the sale of such other parcel of the land in such other county shall be void. If the owner of the land before or at the day of sale shall not make payment of the debt due to the public, the sheriff or officer shall proceed to sell the said lands and tenements, or such estate and interest as the party convict shall have therein, or so much thereof as will be sufficient, laid off in one entire parcel if it may be done, in such place and manner as he or his agent if he think proper shall direct, for ready money or other property as the demand may be, and the costs; but if the estate cannot be sold for three fourths of its value in the opinion of the valuers of the county, he shall sell the same upon three months credit, taking bond of the purchasers with sufficient surety or sureties for payment to the chief magistrate of this commonwealth for the time being. Every bond thus taken shall mention on what occasion the same was taken, and shall by the sheriff or officer be immediately returned to the clerk's office from whence it issued, there safely to be kept, and when due, execution thereon may be awarded in the same manner, and on the same conditions that executions are now awarded on replevy bonds, and shall in like manner be indorsed by the clerk that no security is to be taken.

SECT. V. In all sales of lands by virtue of an execution the sheriff or other officer shall convey the same to the purchaser at his costs by deed in writing, indented, sealed, and recorded as the laws direct for other conveyances of land, which deeds shall recite the execution, purchase, and consideration, and shall be effectual for passing to the purchaser all the estate and interest which the debtor had and might lawfully part with in the lands.

SECT. VI. If the lands and tenements, goods and chattels of any sheriff, coroner, or other public collector, are insufficient to satisfy the debt, damages and costs due to the public, judgment shall be obtained against his security or securities in the same summary way that judgment may by law be obtained against his or their principal, and the lands and tenements, goods and chattels of such security or securities, except as before excepted, shall be taken in execution to satisfy the balance of such debt, damages and costs, in the same manner as these lands and tenements, goods and chattels of his or their principal may be taken and sold agreeable to this act.

SECT. VII. In every writ of *fieri facias* upon judgments hereafter to be obtained by the commonwealth against any sheriff, coroner, or other public collector after the words "We command you that of the" the clerk from whose office such writ shall issue shall insert the words "Lands and tenements" where conform the subsequent part of such writ thereto.

SECT. VIII. AND WHEREAS large sums of money are retained in the hands of sheriffs and other public collectors to the great injury of the commonwealth: For remedy whereof, Be it enacted, that where the property of any sheriff, coroner, or other public collector, or their securities, have been taken in execution to satisfy a judgment obtained by the commonwealth, and the same were not sold for want of buyers, and return thereon hath been made to that effect, or where the property of any sheriff, coroner, or other public collector, or their securities, have been exposed to sale by virtue of any writ of *venditioni expona* to satisfy a judgment obtained by the commonwealth, and could not be sold for want of buyers, and return hath been made to that effect, in either of the above cases it shall and may be lawful for the Executive, and they are hereby authorized required, to direct the officer to whom any subsequent process in either of the above cases ought to issue, provided such property cannot be sold agreeable to the directions of such subsequent process, to cause such property to be removed to some place in any adjacent county as the Executive may direct, and there to be sold such money or government securities on such terms and in such proportions as before shall judge expedient, provided that if such property will not sell for three fourths of its value in the judgment of the valuers of the county where the sale shall be made, the sheriff or other officer shall sell the same on three months credit, shall take bonds in the same manner, and the like proceedings shall be had thereon as is herein before directed in cases of bonds taken on the sale of lands and accommodations sold by virtue of this act.

SECT. IX. In every case where any writ of *fieri facias* or *venditioni expona* issues against the estate of a sheriff on behalf of the commonwealth, an injunction law the same ought to be directed to a sheriff, such writ or writs shall be executed by the high sheriff. In like manner where any writ of *fieri facias* or *venditioni expona* shall hereafter issue at the instance of the commonwealth against the estate of any sheriff, coroner, or other public collector, or their securities, and the goods and chattels of such debtor cannot be sold for want of buyers, the Executive

shall direct the property to be removed and sold as above directed in the cases of such sheriffs, coroners, public collectors, and sequestrors, whose property has not been sold for want of buyers.

SECT. X. It shall be the duty of the Solicitor General forthwith to acquaint the Executive when their interposition is, or hereafter may become, necessary to the carrying this act into effect.

SECT. XI. AND WHEREAS there is reason to suspect fraudulent practices have prevailed in the sale of estates of public debtors, to prevent such practices in future, Be it enacted, that the Solicitor General, immediately on the return of any process which he shall suspect was fraudulently executed, shall give notice thereof to the Executive, whose duty it shall be to direct the Attorney of the commonwealth for such county to file an information thereupon, in which like proceedings shall be had as in other cases of information, and if it shall appear that such sale was fraudulently made, the property of any thing thus fraudulently sold shall not be changed, but remain subject to the demand of the commonwealth; and the officer who executed such process, if he be concerned in such fraud, shall ever after be rendered incapable of being appointed to any office of honor or profit.

SECT. XII. AND WHEREAS sheriffs and other public collectors in some instances have proceeded to collect the public revenue without having entered into bond with security for the faithful performance of that duty, which cannot be recovered from such collectors except by the tedious process of law: For remedy whereof, Be it enacted, that every sheriff or other public collector who may have attempted the collection of any of the different species of taxes in any county or corporation in this state, shall be liable to a judgment and execution for the same sum, and in the same summary way as if such sheriff or other public collector had actually given security agreeable to law.

SECT. XIII. In all executions founded upon judgments heretofore obtained, where it may be necessary to remove any property by virtue of this act, the extra expenses attending such process, shall be discharged by the commonwealth, but in all executions upon judgments hereafter to be obtained such additional expenses shall be paid by the owner of the property, and taxed in the costs of the prosecution.

SECT. XIV. AND be it further enacted, That no person whatsoever shall be capable to serve or execute the office of under sheriff or deputy sheriff, for any longer time than two years, in any period of four years, unless he shall produce to the court of his county satisfactory proof of his having collected and accounted for the taxes assigned to him by his former principal, Provided, that nothing herein contained shall be construed to prevent any under sheriff now in office from serving the time that his principal shall be in office.

SECT. XV. The clerks of the respective county and corporation courts within this commonwealth shall on or before the first day of July transmit to the Solicitor General a list of the several fines which may have been imposed by their respective courts since the first day of January in the year one thousand seven hundred and eighty two; and if no fine shall have been imposed by any of the courts within the said period, the clerk's shall so certify. Every clerk failing to perform the aforesaid duty shall forfeit and pay fifty pounds, to be recovered by the Solicitor General in the General Court, and applied to the use of the commonwealth, provided, ten days previous notice be given in writing of every such motion.

C H A P. XL.

ACT to repeal so much of every Act of Assembly as authorizes the Auditor of Public Accounts to issue Certificates for Militia and Service performed during the late War.

Pas^ded the 7th of JANUARY, 1788.

SECTION I. WHEREAS it is just and expedient to repeal so much of every act of Assembly as authorizes the Auditor of Public

Counts to issue certificates for militia service performed during the late war; Be it therefore enacted, That so much of all and every act of Assembly, heretofore

passed, as authorizes the Auditor of Public Accounts to issue certificates for service performed during the last war, shall be and the same is hereby

C H A P. XLII.

ACT to REMEDY ABUSES in the manner of SELLING LANDS for the PAYMENT of PUBLIC TAXES.

Pas^ded the 7th of JANUARY, 1788.

SECTION I. WHEREAS the manner of selling land, as heretofore practised by the various sheriffs and collectors, for the payment of public taxes due thereon, has in many instances, produced great oppression; and whereby, in future, Be it enacted, That all sales of land for payment of taxes shall be on the premises, and any sale made thereof otherwise shall

be deemed null and void.

SECTION II. NO sale shall be made of land for payment of taxes if other persons belonging to the person chargeable with the land tax can be found.

SECTION III. BEFORE any sale shall take place of any land for payment of taxes thereof shall be given at least eight weeks in the Gazette of the public

printer, and shall be advertised at the court-house of the county where the land lies on the first day of two several courts previous to such sale, and proclamation shall also be made thereof at the door of the court-house, on the said days, between the hours of twelve and four.

SECTION IV. ALL sales of land so made shall be conducted by the high sheriff, where the sheriff has entered into bond for the collection of the taxes. And if any other person hath been or shall be appointed by the court to collect the taxes, the sales of land made to discharge the taxes shall be conducted by the said collector and not by a deputy.

SECTION V. THE said high sheriff or collector of taxes shall give to the commissioner of the land tax in his county at least thirty days notice previous to any sale of land as aforesaid, and the said commissioner shall attend the said sale for which he shall be allowed six shillings, to be paid by the person chargeable with such land tax: And if the land so offered for sale will not yield a price in the opinion of the said commissioner, equal to one half of the value thereof, taking for his guide, in estimating the value, the price at which such land is charged by the act for equalizing the land tax, and having regard to the quality of the particular part of the land so offered for sale, then the said commissioner shall bid for and purchase the said land on account of the public, and shall give to the sheriff or collector a certificate thereof, expressing therein the amount of taxes for which such land hath been sold, which certificate being by the said sheriff or collector paid to the treasurer, he shall have credit for the same in part of the land tax; and the person who was chargeable originally with the said land tax, may discharge the same and be entitled to all the estate he held in such land in as full and ample a manner as if the said sale had never been made: PROVIDED payment be made of the said taxes, agreeable to the certificate of the commissioner, into the public treasury at any time within six months after such certificate shall be delivered to the treasurer together with twenty five per centum damages on the amount thereof; or if payment be made at any time, not less than six months nor more than two years thereafter, the same may be discharged by payment of double the amount of the said certificate: BUT PROVIDED payment shall not be made thereof within two years from the time that such certificate shall be paid to the treasurer, then and in that case the Governor shall appoint such person or persons, as may to him with advice of Council seem proper, to sell the said land and convey the same to the purchaser thereof, and to pay the amount of the debt due to the public, with the damages and expenses of sale in the first instance from the money arising from the sale thereof, and to pay the surplus, if any, to the person who may have been proprietor of the land at the time the commissioner of the taxes may become purchaser thereof on public account, or to the legal representative or representatives of such proprietor.

SECTION VI. ALL sales of land for taxes, where the sheriff or collector, or any deputy sheriff or collector, or any person in trust for them or either of them, or in partnership with them or either of them, is the last bidder for such land, shall be considered as held in trust for the payment of the taxes for which such land is offered for sale, and may be redeemed by the proprietor thereof by payment of the taxes due thereon, and the charges of sale, with interest thereon at the rate of six per centum per annum, and ten per centum damages.

SECTION VII. PROVIDED ALWAYS that nothing herein contained shall be construed to authorize any commissioner to purchase any land on account of the public to a greater amount than the sum due to the public for the taxes thereof.

SECTION VIII. IN all cases of landlord and tenant, wherein the tenant shall covenant for the payment of the taxes, by law imposed upon the land by him tenanted, the property of every such tenant thereon being shall be liable to the payment thereof; and to ascertain the same, the clerks of the several county courts shall, annually, before the first day of April, certify to the commissioners of the tax in his county an abstract of all deeds or leases for the tenancy of lands lying therein which shall have been recorded within twelve months last preceding, and the said commissioners shall enter the same in their return of taxable property for the guidance of the sheriff or collector.

SECTION IX. SO much of every act or acts of Assembly as comes within the purview of this act shall be, and the same is hereby repealed.

SECTION X. AND be it further enacted, That where any deed or conveyance for land lying within the district of Kentucky, hath been, or shall be recorded in the General Court of this commonwealth, and the legal tax thereon shall have been paid, and the same deed or conveyance shall be transmitted with a certificate thereof to be recorded also in the said district, such deed or conveyance shall be admitted to record in any of the courts thereof, wherein the same ought by law to be recorded, without payment of any further tax thereon.

C H A P. XLIII.

AN ACT to EXEMPT certain PERSONS from the PAYMENT of COUNTY LEVIES and POOR RATES.

Pas^ded the 21st of NOVEMBER, 1787.

SECTION I. BE it enacted by the General Assembly, That the courts of the several counties within this commonwealth are hereby empowered and required, upon application, to exempt from payment of county levies and poor rates, all such persons as from age or infirmities are, or may hereafter be entitled to an exemption from the payment of public taxes; and that all those persons who have been exempted heretofore from the payment of public taxes, shall be and are hereby exempted from the payment of the said levies and poor rates.

C H A P. XLIV.

An ACT providing for the regular payment of the expences accruing from the trial of criminals in the county and corporation courts.

Passed the 3d of JANUARY, 1788.

SECTION I. WHEREAS no certain adequate mode is fixed by law for the regular payment of the expences attending the examination and trial of criminals in the county courts, and it is necessary that the same should be provided for and regularly paid by the public; BE it therefore enacted by the General Assembly, That the several county and corporation courts within this commonwealth, having jurisdiction in such examinations and trials, shall, annually in the month of September or October, cause to be certified to the Auditor of Public Accounts all claims for expences accruing after the first day of January, one thousand seven hundred and eighty-eight, from the examination and trial of criminals, for guards and the maintenance of criminals in their respective counties and corporations, for conveying them to the public jail for further trial, and for imprisonments, for misdemeanor or breach of the peace, and all other charges properly chargeable to the public, together with the vouchers on which such claims have been allowed, and the Auditor is hereby authorized and required to liquidate and adjust the said claims, and after having converted such of them as are in tobacco (the price whereof is not otherwise settled by law) into money, at the rate of twelve shillings and six pence per hundred, to grant warrants on the treasury to the respective claimants for the amount of their claims; which warrants so issued shall be receivable in payment of taxes in like manner as those granted for expences attending criminal prosecutions in the General Court.

SECT. II. AND be it further enacted, That the accounts of all such charges as have been heretofore levied or assessed, or which may be assessed in the levy to the first day of January, one thousand seven hundred and eighty-eight, by any county court on their respective counties and charged to the public shall be certified and transmitted by the clerks of such counties to the Auditor of Public Accounts, who is hereby authorized and directed to liquidate and adjust the said accounts, and after having converted such of them as are in tobacco (the price whereof is not otherwise settled by law) into money, at the aforesaid rate of twelve shillings and six pence per hundred, to grant certificates to the respective counties for the amount of their claims, the payment of which certificates shall hereafter be provided for in such manner as the General Assembly shall direct.

SECT. III. SO much of all and every act and acts as comes within the purview of this act shall be, and the same is hereby repealed.

C H A P. XLV.

An ACT concerning the redemption of PAPER MONEY funded agreeable to the recommendation of Congress.

Passed the 5th of JANUARY, 1788.

SECTION I. WHEREAS so much of the laws of revenue as direct the application of one tenth of the money arising from the tax on lands and lots to the redemption of the money funded agreeable to the recommendation of Congress of the eighteenth of March one thousand seven hundred and eighty, have been found unequal in their operation: BE it therefore enacted, That so much of any act or acts of Assembly as permits the payment of any part of the taxes on lands and lots in the said paper money, shall be, and the same is hereby repealed:

SECT. II. And that more effectual provision may be made for the redemption of so much of the said money as hath been heretofore actually emitted, the treasurer is hereby directed and required to set apart one tenth of all the specie paid into the treasury in discharge of the taxes on lands and unimproved lots subject to the direction of the General Assembly hereafter, in such manner as will conduce most to the public interest, and a compliance with the public engagements for the redemption of the said money: Provided always, that nothing herein contained shall prevent the payment, into the treasury, of any of the said paper money, actually received by any sheriff or collector of public taxes, agreeable to the laws heretofore permitting the payment of one tenth of the tax on lands and unimproved lots, in the said money; but every sheriff or collector of public taxes, on payment of such proportion thereof, as hath been actually received agreeable to law, before the passing of this act, shall have credit for the same accordingly.

C H A P. XLVI.

An ACT for further continuing an ACT to revive and amend in part an ACT for giving further time to enter CERTIFICATES for SETTLEMENT-RIGHTS, and for locating WARRANTS on PRE-EMPTION-RIGHTS, and for other purposes.

Passed DECEMBER the 20th, 1787.

SECTION I. WHEREAS the act of Assembly passed in the year one thousand seven hundred and eighty-four, intituled "An act to revive and amend in part an act for giving further time to enter certificates for settlement-rights, and for locating warrants upon pre-emption rights, and for

other purposes," which was continued by several subsequent acts, will expire on the last day of December one thousand seven hundred and eighty-seven, and it is expedient that the same should be further continued in part: BE it therefore enacted by the General Assembly, That the said recited act shall be continued in part until the thirty first day of December one thousand seven hundred and eighty-eight; within which time the register of the land office or his deputy shall receive all plats and certificates of survey, although not returned within the time heretofore limited by law, and such lands shall not be considered as forfeited or liable to forfeiture on that account.

SECT. II. AND WHEREAS the time allowed by law for entering certificates for settlement rights, will expire on the last day of December one thousand seven hundred and eighty seven and it is judged expedient to continue the same, Be it therefore enacted, that it shall and may be lawful for the surveyors of this commonwealth within their respective counties at any time before the said thirty first day of December in the year aforesaid to receive and enter all such certificates or the attested copies of such as shall be lost, and to proceed to survey the same as the law directs: Provided, such attestation be made by the commissioners who granted the same, or by the clerk of the superior court of the district of Kentucky, or the register of the land office.

SECT. III. AND be it further enacted, that any person who hath obtained, or shall obtain a pre-emption warrant before the last day of December in the present year, shall be allowed until the last day of June one thousand seven hundred and eighty eight to enter the same with the surveyor of the county in which the land may lie; and all warrants so obtained, with the entry and survey thereupon, shall be good and valid in law, any act or acts to the contrary notwithstanding.

C H A P. XLVII.

An ACT concerning certain DUTIES on TOBACCO.

Passed the 1st of DECEMBER, 1787.

SECTION I. WHEREAS by an act passed at the last session of Assembly, intituled, "An act to raise a supply of money for the United States in Congress assembled," it was amongst other things enacted, that from and after the tenth day of January, one thousand seven hundred and eighty seven, an additional duty of six shillings per hoghead on every hogshead of tobacco passed at and shipped from any public ware-house within this commonwealth should be paid to the inspectors, and it has been represented to this present General Assembly that many inspectors received the said additional duty upon tobacco which had been inspected before the said tenth day of January, one thousand seven hundred and eighty seven, which was contrary to the intent of the said act, and it is reasonable that the money so improperly collected should be refunded: BE it therefore enacted by the General Assembly, That the Auditor of Public Accounts upon an affidavit of any inspector or inspectors, or other satisfactory proof being produced to him that any person hath paid the said additional duty of six shillings per hoghead upon tobacco inspected before the said tenth day of January, one thousand seven hundred and eighty seven, shall grant to such person a warrant for the full amount of the duty so paid by him in which warrant shall be paid by the Treasurer out of the funds arising from the duties on tobacco. PROVIDED NEVER THE LESS, that where any inspectors have not paid the said additional duty into the treasury the same shall not be paid by the public, but the person to whom it shall appear to be due, shall and may recover the said duty of any such inspector or inspectors, by motion, in any court of record within this commonwealth, upon giving ten days previous notice thereof, together with the costs of such motion.

SECT. II. AND be it further enacted, That if any inspector or inspectors shall grant a certificate or affidavit to any person or persons of his or their having paid such additional duty, where the same shall not actually have been paid, or for a greater sum than any such person or persons shall have paid, such inspectors or inspectors shall, upon information and proof thereof being made to the Executive, be displaced by them, and shall moreover forfeit and pay the sum of fifty pounds, to be recovered by action of debt or information in any court of record, one half of which shall be applied to the use of the informer, and the other half to the use of the commonwealth.

SECT. III. AND WHEREAS it is represented that many persons have twice paid the duties on the same hogshead of tobacco, as well at Rivanna and Lynch's inspection, as at the ware-houses below receiving such tobacco, which is contrary to law, BE it therefore enacted, That upon a similar proof of such duty being twice paid on the same hogshead of tobacco, as is herein before directed, the same shall be repaid to the person or persons, under the like restrictions as are prescribed with respect to the said six shillings per hoghead.

SECT. IV. AND WHEREAS the act, intituled, "An act to appoint Commissioners to state and settle the losses sustained by the burning the ware-house at Rockey Ridge," imposing a tax of three shillings per hoghead on tobacco hath been misunderstood by many of the inspectors, and the said tax collected from the shippers of tobacco from the first day of May to the first day of October one thousand seven hundred and eighty-six, contrary to the intent and meaning of the said act: BE it therefore enacted, That all persons having had so improperly collected from them the said three shillings, shall be entitled to recover the same in the manner and under the same restrictions as are herein prescribed for persons who have been illegally charged with the six shillings on tobacco inspected before the tenth day of January last, any thing in any act to the contrary notwithstanding.

C H A P. XLVIII.

An ACT to amend the ACTS concerning the POOR.

Passed the 31st of DECEMBER, 1737.

SECT. I. WHEREAS the laws heretofore made for providing for the poor execution, and in others inadequate to the purpose; For remedy thereof, Be it enacted by the General Assembly, That there shall not in future be more than four districts for electing overseers of the poor in any one county; and that in the several counties wherein there are at present more than four such districts, the courts of such counties respectively shall be, and they are hereby empowered and required at some one of their respective courts in the months of February, March, or April next, to cause their respective counties to be laid off into convenient districts not exceeding four, and shall order new elections to be made of overseers of the poor in such districts in the manner prescribed by the act, intituled, "An act to provide for the poor of the several counties within this commonwealth," which overseers of the poor so to be elected shall serve for and during the same term for which the former overseers of the poor in such counties had respectively been elected.

SECT. II. AND be it further enacted, That the overseers of the poor in every county, although in different districts, shall meet annually at some convenient place, to be appointed by a majority of them, on the first Monday in September, if fair, if not the next fair day. The overseers of the poor of the different districts (if there be more than one in the county) shall bring with them to such annual meeting a distinct state of the number, names and situation of the poor, and an account of their expenditures in their respective districts, and a majority of the overseers of the poor in the county so meeting, and there being in such majority at least one overseer of the poor from each district, shall chuse a president, and shall be empowered to regulate the necessary provisions to be made for all the poor of the county (exclusive of the poor of any corporate town) for the succeeding year, as well as to adjust and settle the charges of supporting and maintaining the poor the preceeding year, and to levy and assess upon all such taxables of their county as are subject to county levies, except the inhabitants of any corporate town, and settle the amount of the poor rate upon each such taxable in the same manner as the vestries used formerly to ascertain land assess the parish levy, either in tobacco or money at a certain price at the option of the payer: for which purpose, the clerk of the county shall furnish the said overseers of the poor with a certified copy of the list of all such taxables in the county, exclusive of those in any corporate town within the same, if any such there be.

SECT. III. AND the said overseers of the poor shall also be, and they are hereby empowered and required, at their annual meeting to appoint a collector of such county poor rate, and to take from him bond with sufficient security, in a sum double the amount of the sum to be collected by him, payable to their president, for the use of the said overseers of the poor, to be applied towards lessening the county poor-rate, and conditioned for the faithful and diligent collection of the said poor-rate, and the payment to the several persons respectively entitled thereto of the sums of tobacco or money due to them according to the entries and accounts of the said overseers of the poor, (a copy of which shall be delivered to such collector) and also for settling with the said overseers of the poor, or their successors, at their next annual meeting, a just and true account of all his receipts and disbursements with proper vouchers, and paying whatever balance shall, upon such settlement, appear to be in his hands: such collector shall be allowed the same commissions for receiving the said poor-rate, as the sheriff is by law allowed for receiving county levies, shall be subject to the same rules and regulations, and shall have the same power of distress in case of non-payment of any person chargeable therewith, at the time the county levies are by law distrainable.

SECT. IV. IT shall be lawful for such collector to appoint one or more deputies to assist him in the collection of the poor rate, for whose conduct he shall be answerable, which deputies shall have the same powers as the collector himself, and if such collector shall refuse or neglect to settle his account with the overseers of the poor, as herein before directed, or shall fail or refuse to pay him any money or tobacco which shall be in his hands, or in the hands of any of his deputies, or shall delay or refuse to pay off the several claims to the persons respectively entitled thereto, it may and shall be lawful for the court of the county wherein such collector was appointed, upon the motion of the overseers of the poor, or of any of the persons having legal claims, to grant judgment against such collector and his securities for the sum of money or tobacco respectively due to the said overseers of the poor, or to such legal claimants with costs: PROVIDED such collector and his securities have ten days previous notice of such motion. And such collector shall have the same remedy and mode of recovery against his deputies, or either of them, and their securities respectively, for any sums of money or tobacco, which, by virtue of this act such collector may be subjected to the payment of, on account of the disfactions of any of his deputies.

SECT. V. THE overseers of the poor at their annual meeting, shall be and they are hereby empowered to settle the accounts of the former overseers and receive from them any sums of money or tobacco which shall be in their hands, and to call upon the collector or collectors herebefore appointed by any sheriff for a settlement of their accounts, and payment of any balances which shall be in their hands, and on failure of such payment they shall have the same mode of recovery, as is by this act directed for the recovery of money or tobacco in the hands of a collector of their own appointment.

SECT. VI. THE said overseers of the poor shall also be and they are

hereby empowered to levy, in the manner before directed, such sums of money or tobacco as shall be necessary to pay any arrears which may be due and unpaid by any parish or district to individuals. And that where several counties shall compose one parish only, it shall be lawful for the overseers of the poor of each county to recover of the collector or wardens their proportion of any tobacco or money in their hands.

SECT. VII. ALL the proceedings and account of the overseers of the poor shall be regularly entered in a book, and shall be signed by the members present at each annual meeting, and for this purpose the said overseers of the poor of each county, or a majority of them, shall be and are hereby empowered to appoint a clerk, and at any time upon his misbehavior or neglect of duty to remove him and appoint another in his stead, and to make such clerk an allowance, not exceeding the sum of five pounds annually, for his services.

SECT. VIII. AT the said annual meeting each of the overseers of the poor in the county who are present shall have a vote, and if upon any such vote they be equally divided, the question shall be decided in favor of that side on which the president shall have voted.

SECT. IX. IF on the first day of the before mentioned annual meeting there shall not appear a sufficient majority of the overseers of the poor for the county to proceed to business, any one or more of such as shall have attended, shall be and are hereby empowered to adjourn, from day to day, until such a majority shall meet, who may afterwards adjourn from day to day until their business shall be finished.

SECT. X. AND be it further enacted, That the overseers of the poor shall, if they demand the same, be allowed the sum of six shillings each, to be charged in their account of other expenditures, for every day they shall attend the before mentioned annual meeting, and shall be subject to a penalty of the like sum for every day each of them respectively shall fail to attend the same, to be computed in both cases from the first day of such annual meeting during the continuance thereof, and their clerk shall in like manner be subject to the penalty of twelve shillings for every day he shall fail to attend such annual meeting, unless such overseers of the poor, or their clerk, respectively, shall be prevented from attendance by sickness or other unavoidable accident; to be recovered with costs by warrant before any justice of the peace for the county.

SECT. XI. AND any person being duly elected who shall refuse or neglect to serve as an overseer of the poor in the county of which he is an inhabitant unless disqualified by age or other infirmity (such disqualification to be judged of by the county court) shall forfeit and pay the sum of ten pounds to be recovered with costs by action of debt or information in any court of record within the commonwealth: PROVIDED that no person shall be compelled to serve more than three years nor be subject to the penalty for refuse more than once in any term of nine years.

SECT. XII. UPON the death, refusal, removal or disability of any overseer or overseers of the poor some other person or persons shall be elected in the stead of the person or persons so dying, refusing, removing, or disabled, to serve for the same time, such person or persons should otherwise have remained in office.

SECT. XIII. AND be it further enacted, That the overseers of the poor, or any one of them, shall be and are hereby empowered upon discovering any vagrant or vagrants within their respective districts to make information thereof to any justice of the peace for the county, and to require a warrant for apprehending such vagrant or vagrants to be brought before him or some other justice of the peace for the county; and if upon due examination it shall appear to such justice that such person or persons are within the true description of a vagrant as herein after mentioned, such justice shall, by warrant under his hand, order such vagrant or vagrants to be delivered to some one of the overseers of the poor in the district, in which such vagrant or vagrants shall have been apprehended, to be employed in labor for any term not exceeding three months, and by the said overseer of the poor hired out for the best wages that can be procured to be applied to the use of the poor. And if any such vagrant or vagrants shall, during such term of service, run away from the person so employing or hiring him or them, he or they shall be dealt with in the same manner as other run away servants.

SECT. XIV. AND be it further enacted, That the corporation courts of the several corporate towns within this commonwealth, shall be and they are hereby respectively empowered and required to provide for and maintain the poor within the limits of their respective towns, separately and distinctly from the poor of the county, and any two magistrates of any such corporation court shall be and are hereby empowered by warrant under their hands, to cause to be removed any poor person to the last place of his or her legal residence, who hath not been resident within the limits of such town for one year last past before such removal. And in like manner the overseers of the poor in the county, shall be and they are hereby empowered by warrant, under the hands of any two of them, to cause to be removed into any corporate town any poor person whose residence shall have been within the limits of such town for one year last past before such removal, except in both cases such poor persons only as have been lodged in any poor house at any time during the last two years, who shall be respectively returned to and maintained by the county or the town according to their former respective usual residence in either. The said corporation courts shall be and they are hereby respectively empowered, whenever they shall judge it necessary to provide or build a poor house and work house for the reception of their poor, and for the reformation of vagrants, and to employ a proper person or persons as stewards or managers thereof, subject to the direction and controul of such corporation court; and the said corporation courts shall be and they are hereby respectively empowered and required to levy and assess, annually, upon their respective towns, either by way of poll tax upon the inhabitants, or by a tax upon houses or other property within the limits of the town, as they shall judge best, all charges incurred for the support and maintenance of their poor, and also all the charges which may be incurred in providing or building a poor house and work house, and in the government and management of the same.

SECT. XV. AND be it further enacted, that the inhabitants of any such corporate town, not having a freehold estate in the county without the limits of the town, shall be disabed from voting in any election of the overseers of the poor in the respective counties, nor shall any inhabitant of any such corporate town be capable of serving as an overseer of the poor in any county.

SECT. XVI. AND be it further enacted, that it shall and may be lawful for any magistrate of any such corporation-court, upon discovering any vagrant or vagrants within the limits of the town, to issue his warrant for apprehending such vagrant or vagrants for examination, and if, upon such examination before two magistrates of the corporation court, it shall appear that the person or persons so apprehended are within the true description of a vagrant, as herein after mentioned, the said two magistrates shall be, and they are hereby empowered by warrant under their hands to commit such vagrant or vagrants to the work house, there to be employed in labour for any term not exceeding three months, and if there be no work house in such town, the said two magistrates may, and they are hereby empowered to proceed with such vagrant or vagrants, in the same manner as the overseers of the poor in the counties are herein before directed to proceed, upon any vagrant or vagrants being delivered to them.

SECT. XVII. AND be it further enacted, that any able bodied man, who not having wherewithall to maintain himself shall be found loitering, and shall have a wife or children without means for their subsistence, whereby they may become burthensome to their county or town, and any able bodied man without a wife or children, who, not having wherewithall to maintain himself, shall wander abroad, or be found loitering without betaking himself to some honest employment, or shall go about begging, or shall not pay his legal taxes, shall be deemed and treated as a vagrant.

SECT. XVIII. ALL and every keeper or keepers, exhibiter or exhibitors, of either of the gaming-tables commonly called A. B. C. or E. O. tables, or of a Pharaoh Bank, or of any other gaming-table or bank of the same, or the like kind, under any denomination whatever, shall be deemed and treated as vagrants. And moreover it shall and may be lawful for any Justice of the Peace, or magistrate of any corporation-court, by warrant under his hand to order any such gaming-table to be seized, and publickly burnt or destroyed.

SECT. XIX. ALL the forfeitures and penalties inflicted by this act, shall be, one half to the informer, and the other half to the use of the overseers of the poor for the county, to be by them applied towards the support and maintenance of such poor.

SECT. XX. AND be it further enacted, that the clause respecting vagrants or idle persons not having wherewithall to maintain themselves in the act intituled "An act concerning seamen," and so much of all the acts concerning the poor as is contrary to this act, shall be, and is hereby repealed.

C H A P. XLIX.

An ACT for establishing several new inspections of TOBACCO, and reviving and establishing others.

(Passed December 24th, 1787.)

SECTION I. **B**E it enacted by the General Assembly, that the warehouses for the reception and inspection of tobacco shall be and the same are hereby established on the lands of Walter Beall, on Kentucky river near Harrod's landing in the county of Mercer, to be called and known by the name of Harrod's landing; on the lands of James Hogan, at the mouth of Hickman's creek, on the north side of Kentucky river in the county of Fayette, to be called and known by the name of Hogan's; on the lands of Walter Beall, at the mouth of Beachfork on salt river in the county of Nelson, to be called and known by the name of Beall's; on the lands of General Charles Scott, near the mouth of Craig's creek on Kentucky river in the county of Fayette, to be called and known by the name of Scott's; in the town of Boonsborough on Kentucky river in the county of Madison, to be called and known by the name of Boon's; on the lands of John Collier on the Kentucky river, in the county of Madison, to be called and known by the name Collier's; on the lands of John May and Simon Canton on the lower side of Limestone creek in the county of Bourbon, to be called and known by the name of Limestone; on the lands of William Thornton Alexander, in the town of Alexandria, to be called and known by the name of Thornton's; and on the lands of Samuel Brown, on the south side of Nottaway river, in the county of Southampton, to be called and known by the name of Nottaway; and the proprietors of the said lands shall build the said warehouses at their own expence. There shall be allowed and paid annually to each of the inspectors at Harrod's landing warehouse, the sum of twenty five pounds; to each of the inspectors at Hogan's warehouse, the sum of twenty five pounds; to each of the inspectors at Beall's warehouse, the sum of twenty five

five pounds; to each of the inspectors at Boon's warehouse and Collier's warehouse, under one inspection, the sum of twenty five pounds; to each of the inspectors at Scott's warehouse, the sum of twenty five pounds; to each of the inspectors at Limestone warehouse, the sum of twenty five pounds; to each of the inspectors at Thornton's warehouse, the sum of fifty pounds; and to each of the inspectors at Nottaway warehouse, the sum of twenty pounds for their salaries. *Provided always and be it further enacted,* that if the quantity of tobacco inspected at any of the said warehouses hereby established or revived, shall not be sufficient to pay the usual charges and inspectors salaries, the deficiency shall not be paid by the public.

SECT. II. AND be it further enacted, that the inspection of tobacco at Meriwether's warehouses in the town of Newcastle; at Shepherd's in the county of King and Queen; at Boyd's Hole, and Machodack on Potowmack; at Bowler's, at Hampton, Portsmouth, Hon'ds, Rockett's, Rivanna, Suffolk, Urbanna, York, South Quay, Davis's and Lowry's, Yeocomico and Kinsale, Deacon's Neck, Littlepage's, Brick-House, College Landings, and at Poropotank, shall be, and the same is hereby revived and established, under the like rules, regulations, and allowance for inspectors salaries, as if the same had not been discontinued. *PROVIDED,* that the warehouses hereby directed to be established on the lands of William Thornton Alexander, in the town of Alexandria, shall be built of stone or brick, and covered with slate or tile, with gates of iron. And that no tobacco shall be received for inspection at the said warehouses, nor any inspectors appointed for the same, until the court of Fairfax county shall be of opinion, and enter the same of record that the said warehouses are built according to the directions of this act.

SECT. III. AND WHEREAS it hath been represented to the General Assembly, that the proprietor of the land whereon Byrd's warehouses lately stood, is willing to rebuild the same at his own expence, in such manner as will best secure the tobacco lodged therein from the danger of fire: BE it therefore enacted, that so soon as the proprietor of the said land shall, at his own expence rebuild the said warehouses of brick, with a cover of slate or tile, and make the gates of iron, that the inspection of tobacco at the said warehouses, shall henceforth be revived and established in like manner as if they had not been burnt or discontinued: *PROVIDED always,* that no tobacco shall be received for inspection at the said warehouses until the court of Henrico county shall be of opinion, and enter the same of record, that the proprietor hath built the said houses according to the directions of this act.

SECT. IV. AND be it further enacted, that the inspectors at Shockoe and Rockett's warehouses, are hereby authorized to call for the assistance of the third inspector, from time to time, when the quantity of tobacco shall be so great that they cannot inspect it with sufficient dispatch; who shall be paid for the time he shall so act, in like manner as a principal inspector.

SECT. V. AND be it further enacted, that there shall be allowed, and paid to each of the inspectors at Rivanna and Lynch's warehouses, the additional sum of ten pounds; and to each of the inspectors at Hampton, the additional sum of five pounds. *Provided always,* that if the quantity of tobacco inspected at the said warehouses shall not be sufficient to defray the expence of the said additional allowances, the same shall not be paid by the public.

SECT. VI. AND be it further enacted, that so soon as Byrd's warehouses shall be rebuilt and fit for the reception of tobacco, the persons who were commissioned inspectors therat when the former warehouses were burnt shall be reappointed in their offices as inspectors, and from thenceforth their respective salaries shall commence and be receivable.

SECT. VII. Every person who now is or hereafter may be an inspector, shall be incapable of acting as a Justice of the Peace or Sheriff, during his continuance in the office of inspector.

C H A P. L.

An ACT for opening and extending the navigation of WILLIS river.
(Passed DECEMBER 10, 1787.)

SECTION I. **W**HEREAS it is represented to this present General Assembly, that the clearing, improving, and tending the navigation of Willis's river, in the county of Cumberland, to the highest part practicable, will be of public utility, and that many persons are willing to subscribe considerable sums of money for carrying the same into effect, BE it therefore enacted, that Joseph Carrington, Mayo Ringon, Benjamin Wilson, Alexander Trent, Jun. and George Hunter, gentlemen, be, and they are hereby constituted and appointed trustees, clearing, improving, and extending, the navigation of the said river, as far up the same as the Fork Plantation, in the said county of Cumberland, to have a sufficient depth and width of water to navigate boats, batteau canoes, capable of carrying twelve hogsheads of tobacco. And they are hereby authorized to take and receive subscriptions for that purpose. I

person or persons shall neglect or refuse to pay the several sums of money by them respectively subscribed for the purposes of this act, it shall be lawful for the said trustees to recover the same, in the name of the trustees aforesaid, by warrant before a single magistrate, where the subscription shall not exceed twenty five shillings, and where it shall exceed that sum, by motion in the court of the said county of Cumberland, on giving the party so neglecting or refusing, ten days previous notice of such motion. That the said trustees, or a majority of them, shall, as soon as may be, proceed to view the said river, and ascertain as nearly as they can, the highest part capable of navigation, agreeable to this act, and have power to contract and agree with any person or persons for clearing and improving the navigation of the river aforesaid, in such manner as to the trustees shall seem most proper, and to remove all obstructions which shall in any wise injure the said navigation.

SECT. II. *AND be it further enacted,* that the said trustees, or a majority of them, as often as they may see occasion, shall nominate and appoint one or more of their number, willing to undertake the same, to be receiver or receivers of all monies subscribed by virtue of this act, and the person or persons so appointed, shall, in the court of the said county, give bond with sufficient security in a reasonable penalty, payable to the said trustees, and their successors, for the time being, with condition that he or they, his or their heirs, executors, or administrators, at all times when required, shall, and will truly and faithfully, account for all such sums of money, as shall come to the hands of the said receiver or receivers, for the purposes of this act, and pay the same to such person or persons as the said trustees, or a majority of them, shall order and direct.

SECT. III. *AND WHEREAS* it may be found necessary in some parts of the said river, to straighten the same by cutting away the banks, or by canals, *BE it therefore enacted,* that it shall and may be lawful for the said trustees, or a majority of them, to agree with the owners of any land, through which the said canals are intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a *feme-covert*, under age, *non-compos*, or out of the state, the like proceedings shall be had to estimate the value thereof, by a jury, as are directed and prescribed, by the act intituled "An act for opening and extending the navigation of Potowmack river," and such valuation shall be paid by the said trustees to the owner of the land, or his legal representative; and on payment thereof, the said land shall thenceforth be vested in the said trustees, and their successors, in fee, for the purposes of this act.

SECT. IV. *AND be it further enacted,* that the owners of mills on the said river, and every of them, shall, within eighteen months after the passing of this act, erect a sufficient lock or locks at each mill, for the passage of canoes, and batteaus, and thereafter keep the same in good repair; and if such owners, or any of them, shall neglect to erect such sufficient locks, within the said eighteen months, the mill or mills so as aforesaid deficient, are hereby declared nuisances, and shall and may be thrown down and destroyed; and in case any owner of a mill on the said river, shall fail to keep any lock so erected, in good and sufficient repair, or shall fail to cause due attendance to be given thereat, for the reasonable dispatch of vessels navigating the said river, he or they so offending, shall forfeit and pay the sum of ten pounds for every such failure, to be recovered in the name of the said trustees by action of debt, or information in the court of the county where the owner or proprietor resides. So soon as the said river shall be so cleared, as to admit of any easy and safe navigation, the said trustees, or a majority of them, shall divide the same into as many districts as they may think convenient, which they shall lay before the court of the said county of Cumberland, who shall appoint one fit person to each district, to superintend the keeping the same open, and clear of all obstructions, with a sufficient number of hands for that purpose, not exceeding seven for every mile, and the person so appointed shall be exempted from working on the public roads. Every person appointed shall at least once in every month between the months of October and May in every year, and also immediately after every fresh in the said river, happening between the months aforesaid, go through his district, and remove all obstructions which he may find therein, and in case of failure, shall forfeit and pay the sum of forty shillings for every neglect, to be recovered with costs, by action of debt, or information, in the court of the said county. If any person or persons shall fell a tree in the said river, or fix any hedge or stop, or place other obstructions therein, he or they so doing shall forfeit and pay the sum of five pounds, to be recovered with costs by action of debt, or information in the court of the said county.

SECT. V. All penalties and forfeitures imposed by this act, shall be, and due to the use of the said trustees, to be by them applied towards keeping the river open, and improving the navigation thereof. In case of the death, resignation, or other legal disability, of any of the said trustees, it shall be lawful for the remaining trustees to supply the vacancy.

C H A P. LI.

An ACT to explain and amend the act for opening and extending the navigation of WILLIS's river.

(Passed DECEMBER 24, 1787.)

SECTION I. **W**HEREAS it is judged expedient to explain and amend an act passed at the present session of General Assembly intituled "An act for opening and extending the navigation of Willis's river," *BE it enacted,* that

Willis Wilson, gentleman, he, and is hereby constituted and appointed, a trustee for the purposes mentioned in the said act, in the room of Benjamin Wilson, gentleman, one of the trustees therein named, and who hath refused to act, and that Joshua Fry, and Edward Walton, gentlemen, he, and they are hereby constituted and appointed trustees for the purposes aforesaid, in addition to those already appointed, and the said trustees shall have power to clear, improve, and extend, the navigation of the said river as far up the same as the Fork-Plantation, so as to have a sufficient depth, and width of water to navigate boats, batteaus, or canoes, capable of carrying four hogsheads of tobacco.

SECT. II. *AND be it further enacted,* that the owners of mills on the said river, and every of them, shall, within eighteen months after passing this act, erect a sufficient lock or locks at each mill, for the passage of boats, batteaus, and canoes, and thereafter keep the same in good repair, and if such owners, or any of them, shall neglect to erect such sufficient locks, within the said time, the mill or mills so as aforesaid deficient, are hereby declared nuisances, and the said trustees shall be, and they are hereby authorized and empowered to throw down, and destroy the same, and the owner or owners of any mill or mills, on the said river, failing to keep any lock so erected in good and sufficient repair, and failing to cause the attendance to be given thereto for the reasonable dispatch of vessels navigating the said river, shall be subject to the penalties inflicted by the said recited act, to be recovered as therein directed. The persons to be appointed pursuant to the said recited act, to superintend the keeping of the said river open and clear, of all obstructions, shall, and they are hereby required to go through their respective districts, between the first and tenth days of each of the months of January, February, March, April, May, October, November, and December, in every year, and also immediately after every fresh in the said river, happening in the said months, or any of them, and remove all obstructions which they may find therein, which may in any manner injure the said navigation; and in case of failure, shall be subject to the same penalties, to be recovered in the same manner as directed by the said recited act. And if the hands appointed in pursuance to the directions of the said recited act for keeping the said river open, or any of them, shall fail to attend when called on by the said superintendent for the said purpose, he, or they, so failing, or if a slave or slaves, his or their respective masters or owners, shall fail to forfeit and pay the sum of five shillings per hand for every day, he or they shall fail to be recovered with costs, before a single magistrate, where the forfeitures shall not exceed twenty five shillings, and where they shall exceed that sum, by action of debt, or information, in the court of the said county. In case of the death, resignation, or other legal disability to act, of any of the said trustees, it shall be lawful for the remaining trustee, or any four of them, to supply the vacancy by new appointments. So much of the said recited act, as is repugnant to, or comes within the purview of this act, shall be, and the same is hereby repealed.

C H A P. LII.

An ACT for further continuing the act intituled "An act for the better regulating and collecting certain officers fees and for other purposes therein mentioned."

(Passed JANUARY 3, 1788)

SECTION I. **W**HEREAS the act of Assembly passed in the year one thousand seven hundred and forty five intituled "An act for the better regulating and collecting certain officers fees and other purposes therein mentioned," which has been continued by several subsequent acts, will shortly expire, and it is expedient that the same should be further continued: *BE it therefore enacted by the General Assembly,* that the act intituled "An act for the better regulating and collecting certain officers fees and other purposes therein mentioned," shall be continued from and after the passing of this act, for and during the term of three years, and from thence to the end of the next session of Assembly, except so much thereof as relates to the delivery, collecting, and recovery of the fees, formerly payable to the secretary and surveyors.

SECT. II. *AND be it further enacted,* that the surveyor of every county within this commonwealth, may deliver or cause to be delivered to the sheriff of every county respectively, his account of fees now due, or hereafter

C H A P. LIII.
An Act for opening and extending the navigation of APPAMATTOX RIVER.

(Passed December 17, 1787.)

SECTION I. **W**HEREAS it is represented to this present General Assembly, that the clearing, improving, and extending the navigation of Appamattox river, to the highest part practicable, will be of great benefit and public utility, and that many persons are willing to subscribe considerable sums of money for carrying the same into effect. Be it therefore enacted, that John Pride, John Holecom, Joseph Michaux, John Archer, Joseph Jones, Everard Meade, and Richard Crump, Gentlemen, he and they are hereby constituted and appointed trustees for clearing, improving, and extending the navigation of the said river, from Banister's mill as far up the same as they may judge it practicable, so as to have a sufficient depth and width of water to navigate boats, batteaus, canoes, capable of carrying six hogsheads of tobacco, and they are authorized to take and receive subscriptions for that purpose: If any person shall neglect or refuse to pay the money by him subscribed for the purposes of this act, it shall be lawful for the said trustees to recover the same by warrant before a single magistrate where the subscription shall not exceed twenty shillings, and where it shall exceed that sum, by motion in the court of the county where the person resides, provided the party has ten days previous notice of such motion. The said trustees or a majority of them, shall, soon as may be, proceed to view the said river, and ascertain as nearly as they can, the highest part capable of navigation, according to this act; and have power to contract and agree with any person or persons for clearing and improving the navigation of the said river, in such manner as the trustees shall judge proper, and to remove all obstructions which in any wise injure the said navigation.

SECT. II. AND be it further enacted, that the said trustees, or a majority of them, as often as they may see occasion, shall nominate and appoint one or more of their number to be receiver or receivers of all monies subscribed by virtue of this act; and the person or persons so appointed shall, in the court of the county where they respectively reside, give bond with sufficient security, in a reasonable penalty, payable to the said trustees and their successors, for the time being, with condition that he or they, his or their heirs, executors, or administrators, at all times when required, will truly, & faithfully account for all such sums of money as shall come to the hands of the said receiver or receivers, for the purposes of this act, and pay the same to such person or persons as the said trustees or a majority of them shall order and direct.

SECT. III. AND WHEREAS it may be found necessary in some part of the said river, to straighten the same by cutting away the bank or by a canal, BE IT THEREFORE ENACTED, that it shall and may be lawful for the said trustees or a majority of them, to agree with the owners of any land through which the said canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a *seme-convertisse* under *non-compos*, or out of the state, the like proceedings shall be had to estimate the value thereof by a jury, as are directed and prescribed by the act entitled "An act for opening and extending the navigation of Potowmuck-river," and such valuation shall be paid by the said trustees to the owner of the said land, or his legal representative, and on payment thereof, the said land shall thenceforth be vested in the said trustees, and their successors in fee, for the purposes of this act. The said trustees and their successors or a majority of them, shall have power and authority to agree with one person or persons, to cut such canals, and erect such locks, and to perform such other works, as they may think necessary for opening, improving, and extending the navigation of the said river, and out of the money arising from the subscriptions, and tolls hereafter given to pay for the same, and to repair and keep in order the said canals, locks, and other works necessary thereto, and to defray all incidental charges, and to appoint such toll-keepers, managers, and servants, as they shall judge requisite, and to meet for, and settle their respective wages, or allowances, and settle and adjust their accounts, and to make and establish such rules of proceeding, and transact all the other business and concerns for the purpose of carrying this act into execution.

SECT. IV. AND be it further enacted, that for, and in consideration of the expence the subscribers will be at, not only in cutting canals, erecting locks, or other work and labour for opening, improving, and extending the navigation of the said river, but in maintaining and keeping the same in repair, the said canals and works with all their profits, shall be, and they are hereby vested in the said trustees, and their successors forever, to be used for the use of the subscribers and their heirs, as tenants in common, apportioned among them, according to the sums by them respectively subscribed and paid, and the same shall be deemed real estate, and be fully exempt from payment of any tax, imposition, or assessment whatsoever; it shall and may be lawful for the said trustees, and their successors, times hereafter to demand and receive at such place or places upon the river as they may think most convenient, for all commodities trans-

to become due, from any person or persons residing therein, which account shall be signed by the surveyor. And the sheriffs are hereby required and empowered to receive such accounts, and to collect, levy, and receive the several quantities of tobacco therein charged, in money, at the rate prescribed by law, of the persons chargeable therewith. And if such person or persons, after the said fees shall be so demanded, shall refuse or delay until after the tenth day of April, in any year, to pay such of the said fees as shall have been put into the hands of the sheriff before the twentieth day of January preceding, the sheriff of that county wherein such person inhabits, or of the county in which such fees become due, shall have full power and is hereby required to make distresses of the slaves, or goods and chattels of the party so refusing or delaying payment, either in that county where such person inhabits, or where the said fees become due: but no action, suit, petition, or warrant from a Justice, shall be had or maintained for surveyors fees, unless the sheriff shall return that the person owing or chargeable with such fees, hath not sufficient within his bailiwick whereon to make distresses, except where such surveyor shall have lost his fee book by fire or other misfortune, so that he be hindered from putting his fees into the sheriffs hands to collect, and in that case any suit or warrant may be had and maintained for the recovery thereof. And if any sheriff shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence. The sheriff of every county, shall upon or before the last day of May, in every year, account with the respective surveyors for all fees put into his hands before the twentieth day of January preceding, pursuant to this act, and pay the same, abating six per centum for collecting. And if any sheriff shall refuse to account or pay the whole account of fees, put into his hands, after the deductions aforesaid are made, together with an allowance of what is charged to persons not dwelling or having no visible estate in his county, it shall and may be lawful for the surveyor, upon motion made in the General Court or in the supreme court of the district of Kentucky, as the case may be, or in the court of the county, of such sheriff, to demand judgment against such sheriff for all fees wherewith he shall be chargeable by virtue of this act; and such court is hereby authorized and required to give judgment accordingly, and to award execution thereupon, provided the sheriff have ten days notice of such motion.

SECT. III. AND be it further enacted, that it shall not be lawful for any county surveyor hereafter, to withhold from any person intitled to demand the same, a plat by him demanded, and that every surveyor out of office shall have the same remedy for fees due to him, as is hereby given to the acting surveyors. Provided, that no surveyor shall be obliged to deliver a plat of land to any person or persons not resident within this state, before the fees for the same shall be paid, or such security given for the payment thereof as to him shall be deemed sufficient. The commissioners of the tax in the respective counties shall be in like manner empowered to put their tickets of fees into the hands of the respective sheriffs, to be collected in like manner, and subject to the same restrictions and recovery as is herein before provided in the case of surveyors.

SECT. IV. AND be it further enacted, that from and after the passing of this act, the clerks of the several county and corporation courts within this commonwealth, shall deliver their tickets to the respective sheriffs annually, before the first day of March, instead of the time directed by the said first recited act, and that the fourth and fifth sections of the said act which respects the fees of the clerk of the superior courts, shall also be revived and continued, and be in force for and during the term of three years, and from thence to the end of the next session of Assembly.

SECT. V. AND WHEREAS by an act of Assembly intituled "An act for establishing a land office and ascertaining the terms and manner of granting waste and unappropriated lands," it is directed that every county court shall once in every year, and oftener if they see cause, appoint two or more capable persons to examine the books of entries and surveys in possession of their chief surveyor, and to report in what condition and order the same are kept; and on his death or removal, shall have power to take the same into their possession, and deliver them to the succeeding chieffsurveyor: and there is no means provided to compel any surveyor or other person in whose possession such books may be, to produce or deliver up such books, BE IT THEREFORE FURTHER ENACTED, that if any surveyor or other person who may be in possession of any such book of entries or surveys, shall refuse or neglect to produce such book to the persons who by any court may be appointed to examine the same, or to deliver up the same agreeable to the order of such court to any chieffsurveyor who has succeeded or may succeed any surveyor dead, or removed from office, such surveyor or other person, shall for every such refusal or neglect, forfeit and pay the sum of ten pounds, one half to the use of the county, and the other half to the use of the person suing for the same, to be recovered by action of debt, plaint, or information,

through either of them respectively, tolls not exceeding those imposed by the said recited act: and in case any person shall refuse or neglect to pay the tolls at the time of offering to pass through any of the said places, and previous to the vessels passing through the same, be collectors of the said tolls, may lawfully refuse passage to such vessels; and if any vessel shall pass without paying the said toll, then the said collectors may seize such vessel wherever found, and sell the same at auction for ready money, which, so far as is necessary, shall be applied towards paying the said tolls, and all expenses of seizure and sale, and the balance if any, shall be paid to the owner, and the person having the direction of such vessel, shall be liable for such toll, if the same is not paid by sale of such vessel as aforesaid.

SECT. V. *AND be it enacted,* that it shall and may be lawful for every subscriber to transfer his interest in the said canals, or works, in the same manner and under the like conditions and exceptions as are prescribed by the said recited acts. The owners of mills on the said river above Banister's mill, and every of them, shall within eighteen months after passing this act, erect good and sufficient locks through their dams, or on canals convenient and proper around them, so as to procure an easy, safe, and expeditious passage for loaded canoes, boats, and batteaus, both up and down the said river, through or around each and every of the said dams; and moreover the said owners of mills on the said river, shall keep the said locks in good and sufficient repair, and cause to be given constant attendance at the same, to some person or persons whose duty it shall be, to work and manage the said locks at all times when thereto required by any person for the purpose of passing through the same with craft as aforesaid, without delay, giving them free passage, and on failure so to do, the offender shall forfeit and pay a sum of five pounds for every time such failure shall happen, and be moreover liable to the party grieved for damages, which said penalty may be recovered in the court of the county where the offender resides, by motion, in ten days previous notice, by any person who will inform or sue for the same.

SECT. VI. *AND be it enacted,* that if any owner or owners of mills on the said river shall refuse or fail to build such good and sufficient locks, for passing through, or around his or their mill-dam, or mill-dams as aforesaid, the purposes of this act, within eighteen months as aforesaid, then and to that case, the mill dam or mill-dams, not having such locks, are hereby declared to be nuisances, and shall and may be abated, and thrown down, and destroyed. And the trustees aforesaid, or a majority of them, are hereinafter empowered and directed to cause the said dams to be cleared away, and to present an account of the reasonable expence thereof, to the owners of the same, which expences he or they shall pay, or on failure the amount thereof may be recovered against him or them by the said trustees, on motion to the court of the county, giving him or them ten days previous notice thereof.

SECT. VII. *AND be it further enacted,* that if any landholder on the said river, shall suffer any tree to be felled from his land into the same, and thereby remain the space of twenty four hours, at any time after the navigation of the same hath become practicable, every such landholder shall forfeit and pay the sum of forty shillings to any person who will inform or sue for the same in any court of record. The said trustees, and their successors, are by declared to be incorporated, by the name of the Appomattox trustees, and may sue and be sued as such. In case of vacancy by death, refusal to resign, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees, or a majority of them, and others in their stead. *PROVIDED nevertheless,* that the said trustees shall be compelled to begin this work as near to Banister's mill as circumstances will admit. So much of all and every act, and acts, as comes within the meaning of this act, is hereby repealed.

C H A P. LIV.

ACT to establish a Town in the county of HAMPSHIRE.

(Passed December 5th, 1787.)

SECTION I. *B*E it enacted by the General Assembly, that one hundred and thirty nine acres of land, in the county of Hampshire, belonging to John Sellers, and laid off by him into in and out lots, with convenient streets, shall be and the same is hereby established a town by the name of Frankford, and that John Mitchell, Andrew Cowper, Ralph Humphrey Williams, sen. James Clark, Richard Stafford, Hezekiah White, and Jacob Brookhart, Gentlemen, be trustees thereof, who, or the greater part of them, shall have power, from time to time, to settle and determine all disputes concerning the boundaries of the said lots, and to establish the names and regulations for the regular building of houses thereon, as to them shall seem best. In case of the death, resignation, removal out of the state, or other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to supply such vacancy, and the chosen, shall have the same power as if they had been particularly named in this act.

SECT. II. *AND be it further enacted,* that to many of the lots in the said town as are not sold by the said John Sellers, are hereby vested in the said trustees, and they, or a majority of them, shall within six months after the passing of this act, sell the said lots at public auction, having previously advertised the time and place of such sale at the courthouse of the said county, on three successive court days, and convey the same to the purchasers in fee, subject to the condition of building a house on each, sixteen feet square, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and pay the money arising from such sale to the said John Sellers, or his legal representatives. So soon as the purchasers of the said lots shall have built thereon according to their respective deeds of conveyance, they shall then be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state not incorporated, hold and enjoy. If the purchaser of any lot sold by the said trustees shall fail to build thereon within the time before limited, it shall be lawful for the said trustees, or a majority of them, to enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

C H A P. LV.

An ACT for adding part of the county of BRUNSWICK, to the county of GREENSVILLE.

(Passed November 6, 1787.)

SECTION I. *B*E it enacted by the General Assembly, that all that part of the county of Brunswick, lying to the eastward of a line to begin on the Carolina-line, six miles above the termination of the boundary between the said county and Greenville, and running from thence a direct course to where the line between the said counties crosses the river Meherrin, be added to, and made a part of the said county of Greenville. It shall be lawful for the sheriff or collector of the said county of Brunswick, to collect and make distress for any public dues, or officers fees, which shall remain unpaid by the inhabitants thereof, at the time of passing this act, and shall be accountable for the same in like manner as if this act had not been made.

C H A P. LVI.

An ACT for adding part of the county of HARDY, to the county of HAMPSHIRE.

(Passed December 4, 1787.)

SECTION I. *B*E it enacted by the General Assembly, that all that part of the county of Hardy lying north of a line to be run from the mouth of Stoney river, to the High Knob, shall be, and the same is hereby added to, and made part of the county of Hampshire. *Provided always,* that nothing herein contained shall be construed to hinder the sheriff, or collector, of the said county of Hardy, from collecting and making distress for any dues, or officers fees, remaining unpaid by the inhabitants of that part of the said county added to Hampshire, but he shall collect and account for the same in like manner, as if this act had not been made.

C H A P. LVII.

AN ACT to amend the act intituled "An act for establishing a Town on the lands of JAMES WILKINSON in Fayette county, and a FERRY across Kentucky river."

(Passed November 27, 1787.)

SECTION I. *W*HEREAS by an act of the last session of Assembly intituled "An act for establishing a town on the lands of James Wilkinson in Fayette county, and a ferry across Kentucky river," the trustees of the said town were directed to sell the lots within six months after the passing of the said act, and it is represented to the present Assembly that the time elapsed before the trustees could proceed to the sale of any of the said lots, for remedy whereof, *BE it enacted,* that the further time of three years from and after the passing of this act, shall be allowed the said trustees to sell the lots in the said town, any law to the contrary notwithstanding.

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C H A P. LVIII.

An ACT concerning the PERSONAL ESTATE of NICHOLAS GENTRY, deceased.

(Passed DECEMBER 13, 1787.)

WHEREAS Nicholas Gentry, hath lately become *selo-de-se*, whereby his goods and chattels are subject to escheat and forfeiture, and application hath been made to this Assembly, to vest the same in his widow and children, which it is judged expedient to do, under certain conditions,

SECT. II. BE it therefore enacted, that the person obtaining administration on the estate of the said Nicholas Gentry, deceased, shall hold his goods and chattels subject in the first place, to the payment of his just debts, and residue thereof to the use, and for the benefit of the widow of the said Nicholas Gentry, and his children equally.

C H A P. LIX.

An ACT to establish a TOWN at the courthouse in the county of OHIO.

(Passed NOVEMBER 29, 1787.)

BE it enacted by the General Assembly, that sixty acres of land the property of Reuben Foreman, and Providence Mounts, already laid off into lots, and streets, around the courthouse in the county of Ohio, shall be, and the same are hereby established a town by the name of West Liberty, and that James Chaplaine, Zachariah Sprigg, George M'Cullock, Charles Wills, Van Wearingan, James Mitchell, and Benjamin Briggs, gentlemen, be trustees thereof, who, or a majority of them, shall have power and authority, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules and regulations for the building of houses thereon, as to them shall seem most convenient. And in case of the death, removal out of the county, or other legal disability, of any one, or more of the said trustees, it shall be lawful for the remaining trustees to supply the vacancy, and the persons so chosen shall be vested with the same powers as if they had been named in this act.

SECT. II. AND be it further enacted, that the lots in the said town remaining un sold by the said Reuben Foreman, and Providence Mounts, are hereby vested in the said trustees, and they, or a majority of them shall, within six months after the passing of this act, sell the same at public auction, having previously advertised the time and place of such sale, at the door of the courthouse of the said county of Ohio, on two successive court-days, and convey the lots to the purchasers in fee, subject to the condition of building a house each, eighteen feet square, with a brick or stone chimney, to be finished within three years from the day of sale, and pay the money arising from such sale to the said Foreman and Mounts, or their representatives. If the purchaser of any lot in the said town, shall fail to build thereon, within the time before limited, the said trustees or a major part of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

C H A P. LX.

An ACT appointing TRUSTEES for the TOWN of LEESBURG in the county of Loudon.

(Passed NOVEMBER 20, 1787.)

BE it enacted by the General Assembly, that John Hough, Israel Thompson, James M'Illheny, Joshua Daniel, John Littlejohn, Patrick Cavan, and Samuel Murray, gentlemen, are hereby constituted trustees of the town of Leesburg, in the county of Loudon, and they, or a majority of them, are empowered to settle and determine, all disputes concerning the bounds of the lots in the said town, and to establish such rules and orders, for the regular building of houses thereon, as they may judge most proper. In case of the death, removal out of the county, or other legal disability, of any of the said trustees, the vacancy thereby occasioned, shall be supplied by the remaining trustees, and the person or persons so elected, be vested with the same powers as any one in this act particularly named.

C H A P. LXI.

An ACT to enlarge the TOWN of STAUNTON in the county of Augusta.

(Passed NOVEMBER 6, 1787.)

BE it enacted by the General Assembly, that twenty five acres of land the property of Alexander St. Clair, gentleman, laid off into lots and streets, adjoining the town of Staunton, shall be, and the same are hereby added to, and made part of the said town.

C H A P. LXII.

An ACT to vest the right of this commonwealth to a lot of land in the town of Staunton, in THOMAS POAGE and his heirs.

(Passed DECEMBER 20, 1787.)

WHENCEAS it hath been represented to the present General Assembly that a certain John Harmon, purchased of William Beverly, Esquire, in the year one thousand seven hundred and fifty four, a lot of land in the town of Staunton, distinguished by the number six, and that the said John Harmon, having soon after left the country, a certain Robert Brotton, who was his security for the payment of the purchase money, was compelled to pay the same, and to indemnify himself took possession of the said lot, and has since conveyed the same for a valuable consideration to Thomas Poage.

SECT. II. AND WHEREAS it hath been suggested that the said lot of land has become escheatable to the commonwealth, and it is just and right that the same should be vested in the said Thomas Poage, BE it therefore enacted by the General Assembly, that all the right, title, and interest of this commonwealth, in and to the said lot of land in the town of Staunton, distinguished by the number six, shall be, and the same is hereby vested in the said Thomas Poage, and his heirs, forever. Saving to all persons, bodies politic and corporate, other than this commonwealth, their rights, legal, and equitable, in and to the said lot of land.

C H A P. LXIII.

An ACT to establish a TOWN in the county of MERCER.

(Passed December the 4th, 1787.)

WHEREAS Walker Daniel, in his life-time, laid off part of seventy six acres of his land, in the county of Mercer, into lots and streets, and sold and conveyed them to the purchasers; and Robert Daniel his brother, to whom his lands descended, hath since the death of the said Walker Daniel, laid off the residue of the said seventy six acres into lots, and sold and conveyed them to the purchasers; and did moreover convey the springs within the said town, to certain persons and their successors, in trust, for the use of those persons who should reside on the said lots, and also conveyed a square of ground to other persons, in trust, for the special purpose of erecting thereon the public buildings of the district. And application being made to the present General Assembly, to establish the lots and streets so laid off, into a town, and confirm the said two deeds of conveyance,

SECT. II. BE it therefore enacted, that the lots and streets so as aforesaid laid off, shall be, and they are hereby established a town, by the name of Danville, and that John Jouit, William M'Dowell, Harry Junes, Christopher Greenup, Samuel M'Dowell, sen. Abraham Irvin, sen. George Muter, and William Kennedy, Gentlemen, be trustees thereof, who, or the major part of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules for the regular building of houses thereon, as to them shall seem best. In case of the death, removal out of the county, or other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to supply such vacancy; and the persons so chosen shall have the same power and authority as any one particularly appointed by this act. So soon as the purchasers of lots in the said town shall have respectively built thereon a house sixteen feet square, with a brick or stone chimney, they shall be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns not incorporated, hold and enjoy.

SECT. III. AND be it further enacted, that the deeds conveying the no springs and square of ground within the said town as aforesaid, shall be, and are hereby declared to be good and valid, for the uses and purposes therein expressed.

C H A P. LXIV.

An ACT to explain and amend the act "For establishing the town of BOONE'S-BOROUGH in the county of KENTUCKY."

(Passed NOVEMBER 29, 1787.)

WHENCEAS it hath been represented to this present General Assembly that the trustees formerly appointed for the town of Boones'borough in the county of Madison, formerly Kentucky, have refused to act. BE it therefore enacted, that Thomas Kennedy, Aaron Lewis, Robert Rhodes Green Clay, Archibald Woods, Benjamin Bedford, John Sappington, William Irvine, David Crews, and Higginson Grubbs, gentlemen, shall be, and are hereby appointed Trustees of the said town of Boones'borough, in the room of those heretofore appointed.

SECT. II. AND WHEREAS doubts have arisen concerning the quantity of land vested in the trustees of the town aforesaid, BE it enacted, that flat hundred and forty acres of land, shall be, and the same are hereby vested in the trustees aforesaid, and their successors: seventy acres of which for the purpose of lots, and streets, and the remainder for a common, to be laid out and appropriated in the same manner, and subject to the like orders and regulations that the act directs, establishing the town of Boones'borough.

C H A P. LXV.

An ACT to establish a town on the land of CUTHBERT BULLITT, in the county of Prince William.

(Passed NOVEMBER 6, 1787.)

S E C T. I. *B*E it enacted by the General Assembly, that thirty acres of land lying at the mouth of Quantico creek, and on Potowmack river in the county of Prince William, the property of Cuthbert Bullitt, so soon as he shall lay off the same into lots of half an acre each, with convenient streets, be established a town, and called and known by the name of Newport; that Thomas Blackburne, Alexander Henderson, William Grayson, Thomas Montgomery, William Tebbs, Burr Harrison, Jesse Ewell, John M'Millian, and Ludwell Lee, gentlemen are hereby appointed trustees of the said town, who, or a majority of them, shall, from time to time, settle and determine all disputes concerning the bounds of the lots, and have power to establish such rules and orders, for the regular building of houses thereon, as to them shall seem best, and most convenient. In case of the death, removal out of the county, or other legal disability, of any one, or more of the said trustees, it shall be lawful for the remaining trustees, to elect others in their stead, who shall be vested with the same power and authority, as any one in this act particularly appointed.

S E C T. II. *AND be it further enacted,* that so soon as the purchasers of lots in the said town shall have built thereon a dwelling house twenty by sixteen feet, with a brick or stone chimney, such purchasers shall be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

C H A P. LXVI.

An ACT to amend the act for appointing TRUSTEES to regulate the making of slopes for the passage of fish in the mill-dams within the county of BEDFORD.

(Passed December 4, 1787.)

S E C T. I. *W*HEREAS by a division of the county of Bedford, since the passing of the act intituled "An act for appointing trustees to regulate the making of slopes for the passage of fish, in the mill dams, within the county of Bedford," the same cannot be carried into effect in the County of Campbell: For remedy whereof,

S E C T. II. *B*E it enacted by the General Assembly, that Richard Stith, Thomas Moore, sen. Charles Cobbs, Thomas Jones jun. John Morris, Thomas Marshall, and Plummer Thurston, Gentlemen, shall be, and they are hereby constituted trustees, and they, or a majority of them, are authorized and empowered to carry the said act into execution within the said county of Campbell, in as full and ample a manner as the trustees named in the said act could or might do in the said county of Bedford.

C H A P. LXVII.

An ACT for establishing a town on the lands of LEVIN POWELL, in the county of Loudon.

(Passed NOVEMBER 2, 1787.)

S E C T. I. *B*E it enacted by the General Assembly, that fifty acres of land lying in the county of Loudon, the property of Levin Powell, so soon as he shall lay off the same into lots of half an acre each, with convenient streets, be established a town by the name of Middleburg; and Francis Peyton, William Brouaugh, William Heale, John Peyton Harrison, Burr Powell, Josias Clapham, and Richard Bland Lee, gentlemen, are hereby appointed trustees thereof, who, or a majority of them, are authorized to make such rules and orders for the regular building therein, as to them shall seem best, and most convenient. The said trustees, or a majority of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the lots, and in case of the death, resignation, or removal out of the county, of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect others in their stead, who shall be vested with all intents and purposes, with the same power, as any other in this act particularly appointed.

S E C T. II. *AND be it further enacted,* that as soon as the purchasers or owners of lots within the said town, shall have built thereon a dwelling house sixteen feet square, with a brick or stone chimney, they shall respectively be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

C H A P. LXVIII.

An ACT altering the Court-day of the county of CHARLES CITY.

(Passed December 4, 1787.)

S E C T. I. *B*E it enacted by the General Assembly, that from and after the first day of February next, a court for the county of Charles shall be held on the third Thursday in every month, any law to the contrary notwithstanding.

C H A P. LXIX.

An ACT for altering the Court-day of the County of HALIFAX.

(Passed NOVEMBER 20, 1787.)

S E C T. I. *B*E it enacted by the General Assembly, that from and after the first day of February next, a Court for the county of Halifax, shall be held on the fourth Monday in every month, any law to the contrary thereof notwithstanding.

C H A P. LXX.

An ACT to establish a TOWN on the lands of DAVID GERRARD, in the county of Berkeley.

(Passed November 22, 1787.)

S E C T. I. *W*HEREAS it hath been represented to the present General Assembly, that David Gerrard hath laid off one hundred lots with convenient streets in the county of Berkeley, and hath made application that the same may be established a town. *B*E it therefore enacted, that the said one hundred lots and streets so laid off by the said David Gerrard, shall be established a town by the name of Middletown; that William Hartkaw, James Blair, John Gray, Gilbert M'Kown, and Robert Allen, Gentlemen, are hereby constituted trustees thereof, and they, or the major part of them, are authorized to make such rules and orders for the regular building therein, as to them shall seem best and most convenient, and have full power to settle and determine from time to time, all disputes concerning the bounds of the said lots. In case of the death, resignation, or removal out of the county of any one or more of the said trustees, such vacancy shall be supplied by the remaining trustees; and the person or persons so chosen shall be vested with the same power and authority as any one in this act particularly named.

S E C T. II. *AND be it further enacted,* that so soon as the purchasers or owners of lots in the said town, shall have built thereon a dwelling house sixteen feet square, with a brick or stone chimney, such purchasers or owners shall be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state not incorporated, hold and enjoy.

C H A P. LXXI.

An ACT to establish a Town on the lands of IGNATIUS MITCHELL, in the county of Bourbon.

(Passed November 20, 1787.)

S E C T. I. *B*E it enacted by the General Assembly, that eighty acres of land at the mouth of Lawrence's creek, on the river Ohio, the property of Ignatius Mitchell, shall be, and the same are hereby vested in John Grant, Charles Smith, jun. Thomas Warren, Miles Withers Conway, Henry Lee, John Machir, and Robert Rankin, Gentlemen, trustees to be by them or any four of them, laid out into lots of half an acre each, with convenient streets, and shall be established a town by the name of Charlestown. So soon as the said eighty acres of land shall be laid off into lots and streets, the said trustees or the major part of them, shall proceed to sell the lots at public auction for the best price that can be had, the time and place of which sale shall be previously advertised for two months, at the door of the courthouse of the county of Bourbon. The purchasers of the said lots respectively, shall hold the same, subject to the condition of building on each, a dwelling house sixteen feet square at the least, with a brick or stone chimney, to be finished fit for habitation, within three years from the day of sale. The said trustees or the major part of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and shall pay the money arising from the sale thereof, to the said Ignatius Mitchell, or his legal representatives. The said trustees, or a majority of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to make such regulations for the regular building of houses thereon, as to them shall seem most proper. In case of the death, removal out of the county, or other disability of any of the said trustees, it shall be lawful for the others to supply such vacancy; and the persons so chosen shall have the same powers as if they had been named in this act. The purchasers of the lots when they shall have built upon them according to the conditions of their deeds, shall have the same rights, privileges, and immunities, that the inhabitants of the other towns not incorporated hold and enjoy. If the purchaser of any lot shall fail to build thereon according to the condition of his deed, the said trustees or a major part of them, may thereupon enter into such lot, and sell the same again, and apply the money arising therefrom, in any manner for the benefit of the said town.

C H A P. LXXII.

An ACT to amend the charter of the Borough of NORFOLK.

(Passed DECEMBER 7, 1787.)

S E C T. I. *W*HEREAS the mode of electing Common-Councilmen for the Borough of Norfolk, as fixed by the charter, is judged impolitic, and unconstitutional, *B*E it therefore enacted by the General Assembly,

that on the twenty fourth day of June next, or if that shall happen on a Sunday, then the day following, all and every of the Common-Councilmen of the said Borough of Norfolk, shall be displaced, and that on the same day, the freeholders and inhabitants within the said Borough, qualified by law to vote for a Delegate to represent the said Borough, and also on the same day, of the said month, in every third year thereafter, shall meet at the place where the court of the said borough hath been, or shall be usually held, and then and there elect fifteen fit and able men, being freeholders and inhabitants of the said Borough, to serve as Common-Councilmen within the same for three years; of which election, ten days previous notice shall be given by the Mayor, Recorder, or Senior Alderman, for the time being, who shall preside at, and be the judge of the qualifications of the voters at such elections. A majority of the Common-Councilmen so chosen, shall be a sufficient number to proceed to business, and they shall before they enter on the execution of their office, take the oath (or affirmation) of fidelity to the Commonwealth, and moreover take the following oath, or affirmation, "I — do solemnly swear (or affirm as the case may be) that I will faithfully, impartially, and justly, perform the duty of my office, as Common-Council-man of the Borough of Norfolk, according to the best of my skill and judgment. So help me God." Which oath or affirmation, the Mayor, Recorder, or either of the Aldermen, are hereby authorised to administer, and grant a certificate of the same to the person or persons so qualified, which certificate shall be lodged with the clerk of the Borough of Norfolk, and by him entered of record on the books of the said Common-Council. All intermediate vacancies in the Common-Council, shall be supplied in like manner on any day which the Mayor, Recorder, or senior Alderman, as the case may be, shall appoint, previous notice thereof being given as aforesaid; and the person or persons so chosen, shall continue in office until the next general election. The Common-Councilmen, when chosen, shall elect one of their body to preside at their meetings, who shall have power to convene the said Common-Council when necessary. And in case of the death, resignation, or removal of the Common-Councilman so chosen to preside; it shall be lawful for the Mayor, Recorder, or senior Alderman, as the case may be, to convene the Common-Council for the purpose of electing one of their body to supply such vacancy. The sole and exclusive right of passing by-laws, and taxing the freeholders and inhabitants of the said Borough together with the appropriation of all monies belonging to the same, is hereby vested in the Common-Council. All taxes within the said Borough shall be equal and uniform, and for the sole purpose of regulating the police of the same. All vacancies in the Court of Hustings shall be supplied by the Governor, with advice of the Council, on recommendations of the said Court, from the members of the Common-Council, or from among the citizens of the said Borough, who shall have the qualifications prescribed by this act for the members of the Common-Council. The election of the Mayor is hereby declared to be vested in the Court of Aldermen. So much of the charter of the Borough of Norfolk, and of all and every act or acts of Assembly, as is contrary to the intent and meaning of this act, is hereby repealed.

C H A P. LXXIII.

An ACT concerning the EMANCIPATION of certain SLAVES, belonging to the estate of JOSEPH MAYO, late of Henrico county.

(Passed December 13, 1787.)

SECTION I. WHEREAS Joseph Mayo of the county of Henrico, lately deceased, by his last will and testament in writing, bearing date the twenty seventh day of May one thousand seven hundred and eighty, and duly proved and recorded in the General Court on the tenth day of October one thousand seven hundred and eighty five, did amongst other things therein contained, make the following bequest. "It is my most earnest request that the Gentlemen who shall be named and appointed executors of this my last will, petition the General Assembly for leave to set free all and every one of the slaves of which I may die possessed, on account of their services to me whilst alive, and I intreat my said executors to leave nothing undone which may be requisite for obtaining the manumission of the said slaves of which I may die possessed."

SECT. II. AND WHEREAS it appears to this present General Assembly just and proper, that the benevolent intentions of the said Joseph Mayo shall be carried into effect, under such limitations and restrictions, as will guard the rights of all persons having claims upon the estate of the said Mayo either as creditors or legatees under his will: BE it therefore enacted, that Paul Carrington, Miles Selden, and Joseph Carrington, Esquires, are hereby constituted and appointed trustees to carry into effect the aforesaid bequest, for emancipating all such slaves as the said Joseph Mayo died possessed of, and all the increase of the said slaves since his death, subject to the direction and controul of the High Court of Chancery; who are hereby authorized and required to make all such orders and decrees as may from time to time, to the said Court seem just and reasonable, for carrying the said bequest into full effect, having regard to the payment of all debts due by the said Joseph Mayo, and the legacies devised by him, if any such devises there be, which ought in the opinion of the court to be complied with, prior to the emancipation of such slaves, and to raise such a sum of money from the labour of the said slaves, as will, in the opinion of the court, be sufficient to provide for

the maintenance and support of all such slaves belonging to the said Mayo's estate, as from their tender years or from advanced age or infirmities, may be deemed incapable of providing for themselves or in danger of becoming chargeable to the community: And in case of the death, refusal, or disability to act, of any of the aforesaid trustees, it shall and may be lawful for the said High Court of Chancery to appoint one or more trustees, in the room of him or them so dying, refusing, or disabled. And the said High Court of Chancery shall have full power and authority to make all other rules, orders, and decrees, respecting the management of the said slaves: and as soon as, in the opinion of the said court sufficient provision shall be made for payment of the debts and legacies with which the said estate is chargeable, and sufficient provision for the support of those slaves who from age or infirmities may be able to maintain themselves, then it shall and may be lawful for the said High Court of Chancery to make such order or decree as to them may seem proper for emancipating the aforesaid slaves, and shall cause to be delivered to such slave so emancipated, or to the trustees appointed agreeably to this act, a certificate of the emancipation of every such slave, who shall after such order or decree and certificate being issued agreeably thereto, be fully emancipated, and entitled to all privileges to which other free negroes and mulattoes are by law intitled, in as full a manner as if they and each of them were specially named in this act. Provided nevertheless, that at any time before the said High Court of Chancery shall make their final decree for the emancipation of the said slaves, it shall be lawful for any creditor or legatee of the said Joseph Mayo, deceased, to institute and maintain any action either in law or equity, for the recovery of any such debt, or legacy, in like manner as if this act had never been passed. Provided also and be it further enacted, that nothing in this act contained shall be construed to affect the right or interest of any devisee or devisees claiming under the will of the said Joseph Mayo, deceased, as to any other estate or interest whatsoever devised by the said will.

C H A P. LXXIV.

An ACT to confirm the freedom of certain NEGROES late the property of CHARLES MOORMAN, deceased.

(Passed DECEMBER 12, 1787.)

SECTION I. WHEREAS it has been represented to the present General Assembly that Charles Moorman, deceased, late of the county of Louisa, did, on the twenty eighth day of May, in the year one thousand seven hundred and seventy eight, by deeds under his hand and seal, release unto thirty three slaves, then his absolute property, all the right, title, or interest, which he had to the persons of the said slaves, or to any property they might acquire, such emancipation and right to property, to take effect immediately, where the said slaves were of full age, and where the males were under twenty one, and the females under the age of eighteen years, to take effect when they should respectively attain to those ages.

SECT. II. AND WHEREAS the said Charles Moorman, did by his last will and testament, bearing date the second day of September, in the year of our Lord one thousand seven hundred and seventy eight, which has been duly proved, and recorded in the court of Louisa county, make the following bequests to wit: "Item, I lend to my son Robert the labour of the five following slaves, viz: Phyllis (Toby's daughter) Judy, John, (Toby's son) Easter, and Rachel; the males until they attain to the age of twenty one years respectively, and females to the age of eighteen years, and then after that time, it is my will and desire, that the said five slaves and their increase, shall forever hereafter be discharged to all intents and purposes from slavery, or the service of any person whatsoever, and that the said slaves and their increase, shall enjoy all the benefit of freedom in the same manner as if they had been free-born. Item, I lend to my son Thomas the labour of the four following negro slaves, viz: Lucy, Hannah, Tom, and Adam, in manner as followeth; the three last named under the same limitations, and to be made free in the same manner as the five slaves lent to my son Robert; my will is that the first named Lucy that remain with her mother till she is of age, or as long as her mother lives, and that whoever shall keep her, shall pay reasonable wages to my son Thomas, until her mothers death, then she is to be under the same limit as the others to my son Thomas, to be made free at the age of eighteen years. Item, I lend to my son James the labour of the four following negro slaves, viz: George, Sary, Amy, and Nelly, under the same limitations, and to be made free in the same manner as the slaves lent to my son Robert. Item, I lend to my aforesaid beloved wife Mary, the five following negro slaves, viz: Morris, John (Rachel's son) Phyllis, Jean, and Aggy and that she have the benefit of their labours during her natural life, and after her decease, the said negroes to enjoy their freedom above mentioned, they and their heirs forever, to all intents and purposes. Item, I lend to my daughter Agnes Venable, one negro girl slave named Letty, under the same limits, and to be made free in the same manner as the slaves lent to my son Robert. Item, I lend to my daughter Elizabeth Johnston, one negro girl named Peg, under the same limitation, and to be made free in the same manner as the slaves lent to my son Robert. Item, I lend to my daughter Mary Taylor, one negro girl named Milly, under the same limitation, and to be made free in the same manner as the slaves lent to my son Robert, and also one negro girl named

" Mima, in the same manner, and to be made free as above. Item, it is my will and desire that the slaves hereafter named, viz. Jack, Allen, Rachel, Dinah, Hannah, Sarah, Toby, Lett, Beck, Venus, and Annis, in consideration of their faithful services be immediately free, and enjoy all the benefits thereof as persons born free. In case the laws of the land will not admit of such freedom, that then the said last mentioned slaves and their increase be equally divided among my other legatees, or their legal representatives. Item, it is my will and desire, and I hereby leave it as my particular instruction to my executors, as soon as may be, to make application to the General Assembly of this Commonwealth, for an act to confirm the freedom hereby intended to be given to all the slaves above mentioned, and in case such an act cannot be obtained, that then my legatees keep possession of their respective loans and their increase, to descend to them and their heirs or assigns forever. Reserving nevertheless a right for all the above-mentioned slaves to claim the benefit of this my last will and testament if ever hereafter it should be lawful for them so to do."

SECT. III. AND WHEREAS it is just and right that the benevolent intentions of the said Charles Moorman, deceased, towards his said slaves should be carried into effect, Be it therefore enacted by the General Assembly, that the following slaves mentioned in the said bequests to wit: Adam, Annis, Milly, Beck, Dinah, Sarah, Venus, Allen, and Rachel, who are between the ages of twenty one, and forty five years, shall be, and they are hereby emancipated and set free, to all intents and purposes, in like manner as if they had been born free.

SECT. IV. AND be it further enacted, that the following slaves mentioned in the said bequests to wit: Morris, John (Rachel's son) Phyllis, Jane, and Aggy, (who were devised to the widow of the said Charles Moorman, deceased, during her life, and who hath since departed this life) shall be, and they are hereby emancipated and set free to all intents and purposes, in like manner as if they had been born free.

SECT. V. AND be it further enacted, that the following slaves mentioned in the said bequests to wit: George, Amy, Nelly, Phyllis, John, Tom, Lucy, Sarah, Hannah, Easter, Lett, Peg, Judy, and Fanny, who are under the age of twenty one years, shall respectively be emancipated and set free to all intents and purposes, in like manner as if they had been born free; the males, when they arrive to the age of twenty one years, and the females, when they arrive to the age of eighteen years.

SECT. VI. AND be it further enacted, that the following slaves mentioned in the said bequests to wit: Toby, Lett, Hannah, Jack, and Rachel, who are above the age of forty five years (so soon as Christopher Johnston, executor of the said Charles Moorman, deceased, or any other person, shall in the courts of the counties in which the said slaves respectively reside, enter into bond with approved security, payable to the justices then sitting, and their successors, with condition that the said slaves shall not become chargeable to the public) shall be emancipated and set free to all intents and purposes, in like manner as if they had been born free. The increase of the slaves by this act emancipated, shall have and enjoy all the benefits of freedom as fully as if they had been born free. The increase of such of the said slaves as are by this act to be emancipated at any future period, shall have and enjoy all the benefits of freedom from the time that the emancipation of their parents shall take place. Saving to all and every person or persons, bodies politic and corporate, (other than those claiming under the will of the said Charles Moorman) all such right, title, and interest, which he or they might have had in case this act had never been made.

C H A P. LXXVII.

An ACT granting to John Fitch the exclusive privilege of constructing and navigating BOATS impelled by fire or steam, for a limited time.

Pased the 7th of NOVEMBER, 1787.

SECTION I. WHEREAS John Fitch, of the state of Pennsylvania, hath represented to the present General Assembly, that he hath constructed an easy and expeditious method of impelling boats through water by the force of fire or steam, and hath made application for the sole and exclusive right of making and navigating all boats impelled by the force of fire or steam within this state, for a limited time, Be it therefore enacted by the General Assembly of the commonwealth of Virginia, That the said John Fitch, his heirs, executors, administrators, and assigns, are hereby vested with the sole and exclusive right and privilege of constructing, and navigating, every species of boats or water craft, which may be impelled through the water by the force of fire or steam, in the bays, rivers and creeks within the territory and jurisdiction of this state, for and during the term of fourteen years, from and after the end of the present session of General Assembly. If any person or persons, other than the said John Fitch, his heirs, executors, administrators, or assigns, shall construct, use, employ, or navigate, any boat, or water-craft, which shall be impelled through the water by the force of fire or steam, within the territory of this state, every person or persons so offending shall forfeit and pay to the said John Fitch, his heirs, executors, administrators, or assigns, the sum of one hundred pounds, for each boat so constructed, used, or navigated, to be recovered by action of suit in any court of record within this commonwealth, with costs of suit, and all moreover forfeit to the said John Fitch, his heirs, or assigns, every such boat or water-craft, together with the steam-engine, and all appurtenances, to be recovered, with costs of suit, in any court of record within this state.

SECT. II. PROVIDED nevertheless, That this act shall be void at the expiration of three years from its commencement, unless the said John Fitch shall then have in use, in some river of this commonwealth, boats or craft of at least twenty tons burthen each, constructed and navigated as above described.

C H A P. LXXVIII.

An ACT authorising the Directors of the public buildings in the City of Richmond to convey to Philip Turpin certain lands.

Pased the 14th of DECEMBER, 1787.

SECTION I. WHEREAS it hath been represented that the directors of the public buildings in the city of Richmond have appropriated for the use of the public, certain lands within the said city the property of Philip Turpin, part whereof are since found by the said directors to be unnecessary for the said purpose; and the said Philip Turpin hath made application to the present General Assembly to authorise and require the said directors, in behalf of the commonwealth, to convey and release to him so much of the said lands as they may judge unnecessary for public use; Be it therefore enacted, That the said directors, or a majority of them, shall, and they are hereby authorised and required to execute a deed for conveying and releasing to the said Philip Turpin, and his heirs, all the right, title, and interest, of this commonwealth, in, and to so much of the lands, so appropriated, as the said directors shall judge unnecessary for public use.

SECT. II. AND be it further enacted, That the directors shall cause the lands deemed unnecessary for public use, previous to the execution of a deed for the same, to be valued by a jury, in like manner as is directed by law for lands taken and appropriated for the use of the public, within the said city, and shall return such valuation to the court of the county of Henrico, there to be recorded PROVIDED that the jury, in estimating the value of the said land, shall have regard to its comparative value with the other lands, and their former appraised value.

C H A P. LXXIX.

An ACT giving John Hoomes the exclusive privilege of conveying persons in STAGE CARRIAGES between certain places for a limited time.

Pased the 4th of DECEMBER, 1787.

SECTION I. WHEREAS it is represented to the present General Assembly that John Hoomes hath undertaken to keep up and continue a line of stages for the purpose of conveying persons and baggage between Alexandria and Frederickburg, and between Frederickburg and Richmond and Hampton, which will be of considerable public convenience and utility, therefore it is reasonable that the said John Hoomes should possess, for a time, any emoluments arising therefrom, Be it therefore enacted, That the said John Hoomes shall have the sole and exclusive right of conveying, for hire, persons in stage-carriages between Alexandria and Frederickburg, and between Frederickburg and Richmond and Hampton, and to and from any intermediate place or places, for and during the term of three years; and shall and may demand and take for each passenger three pence three farthings per mile, and three pence three farthings per mile for every hundred and fifty pounds weight of baggage exceeding fourteen pounds, conveyed in any of the said stage-carriages. If the said John Hoomes, by himself, or any other, shall demand, or receive, any greater rates than are hereby allowed, he shall forfeit and pay the sum of twenty pounds, to be recovered with costs by an action of debt, bill, plaint, or information, in any court of record, to the use of the party injured. If any person or persons, other than the said John Hoomes, his agents, or servants, establish, or run, any stage-carriages between either of the before mentioned places, or any intermediate place or places, and demand, or take, directly, or indirectly, any fee, or reward, whatsoever, for conveying any person, or persons, or their baggage, in a stage-carriage, or carriages, between either of the above mentioned places, or any intermediate place, during the term aforesaid, he, or they, so offending, shall forfeit and pay for every stage so run or established, the sum of one hundred pounds, and for every person, or one hundred and fifty pounds of baggage, by him, or them, so conveyed, the sum of one hundred pounds, to be recovered, with costs, by an action of debt, bill, plaint, or information, in any court of record, to the use of the said John Hoomes. The said John Hoomes shall, on or before the first day of May next, enter into bond, with sufficient security, in the General Court, or in the court of the counties of Caroline or Henrico, in the sum of one thousand pounds, payable to the Governor, and his successors, for the use of the commonwealth, with condition for the due and faithful keeping up the said line of stages for and during the term aforesaid.

C H A P. LXXX.

An ACT for establishing a new BOUNDARY LINE between the Counties of HENRICO and HANOVER.

Pased DECEMBER the 18th, 1787.

SECTION I. WHEREAS the main run of Chickahominy-Swamp hath been by law established as the boundary-line between the counties of Henrico and Hanover, which, from various causes, is formed into a variety of streams, so that the main run cannot at this time be ascertained with precision; Be it therefore enacted by the General Assembly, that the courts of the said counties shall, immediately after the passing of this act, appoint, each of them, two commissioners, respectable free-holders, not inhabitants of either of the said counties, who shall act upon oath, and they, or a majority of them, are hereby em-

owered and required to proceed to chop a line of marked trees, to begin at the place where the *New Kent* line corners on the swamp, and run up the said swamp to the place where a bridge formerly stood, commonly called and known by the name of *Winston's* bridge, opposite the land late the property of *Peter Winston*, deceased.

SECT. II. The said commissioners, in making the said line, shall have regard to the original main run of the said swamp, where the same can be ascertained, except where there are disputes existing respecting the main run, or suits already commenced by persons owning lands adjacent to the said main run, they shall in every such instance chop a line in such manner as may appear most convenient, without having regard to any run whatsoever.

SECT. II. The said commissioners shall call in some county surveyors who shall act under their directions in running the aforesaid line; and may also, for their information, require the attendance of any person or persons who are, or have been, acquainted with the said swamp, or the runs thereof.

SECT. IV. And in case of the death, refusal or other inability of one or more of the commissioners to act, the said county courts, or either of them, are hereby required to appoint another, or others, as the case may be.

SECT. V. The commissioners appointed as aforesaid, shall make report on their proceedings to the court of each of the said counties, on or before the first day of *November* one thousand seven hundred and eighty eight, which report shall be recorded therein; and the line so marked by them, shall thereafter be the boundary between the said counties of *Henrico* and *Hanover*, for the sole purpose of ascertaining the jurisdiction thereof.

SECT. VI. The said commissioners shall be allowed ample compensation for their trouble, which, with every other expence of marking the said line, shall be levied on the titheable persons in each county, in proportion to their respective numbers.

SECT. VII. *AND be it further enacted,* That nothing herein contained shall be construed to affect the title of any person or persons to lands on the said swamp.

C H A P. LXXXI.

An ACT to amend the Act, intituled, "An ACT for incorporating the TOWN of PETERSBURG, and for other purposes."

Passed the 13th of DECEMBER, 1787.

SECTION I. *B*E it enacted by the General Assembly, That from and after the passing of this act the court of hustings, in the town of *Petersburg*, shall have cognizance of all causes, either in law, or equity, which shall be instituted therein for any debt, or contract, hereafter made, or entered into, where both the parties are resident within the limits of the said town; and also of all presentments, informations, or suits, which shall be made, preferred, or instituted therein for a breach of any penal statute, or act of Assembly, or any bye-law, or ordinance of the common-hall: And that the serjeant of the said court of hustings shall summon twenty four freeholders to attend the court to be held for the said town, in the months of *March*, *May*, *August*, and *November* annually, out of which number fifteen, at the least, shall be sworn as a grand jury, with power to inquire into, and make presentments of, all breaches of penal laws committed within the limits of the said town, in like manner as the grand juries for the respective counties may now by law do.

SECT. II. Whenever the common-hall of the said town shall judge it necessary to purchase any lot or parcel of land for the use of the said town; to erect or repair any public buildings; to build or repair any wharf; to make any causeway; to sink common sewers or drains; to repair any street or road; to appoint watchmen, or to fix lamps to light the town, they shall appoint a day for the meeting of the electors qualified by law, to vote for members of the common-hall, and give two weeks previous notice of the time and place of such meeting, by publication in the gazette of the said town, or otherwise, advertising the same in the most public places therein:

SECT. III. If two-thirds of the electors qualified as aforesaid shall meet the mayor, recorder, or eldest alderman, and a majority of them agree to adopt the measure proposed by the common-hall, it shall thereafter be lawful for the common-hall to raise a sum of money sufficient for that purpose, in like manner, as is directed for carrying into effect the other powers vested in the common-hall.

SECT. IV. If two-thirds of the said electors should not attend at the first appointment, the business shall be postponed, from time to time, until two-thirds shall attend. *Provided always,* That nothing herein contained shall be deemed or taken to prevent, or restrain, the common-hall from imposing and levying a tax, within the said town, not exceeding the sum of one hundred pounds, in any one year, for the purposes within mentioned, or such of them as they shall think necessary.

SECT. V. Two additional aldermen, as well as common councilmen, shall hereafter be chosen at each annual election.

SECT. VI. And whereas the persons elected common-councilmen in the month of *September* last, for the corporation of *Petersburg*, refused to qualify; and the former hall undertook to appoint other members in their stead, which is supposed to be contrary to the spirit and intention of the act for incorporating the said town, *Be it therefore enacted,* That the present members of the said hall are hereby displaced, and sixteen members shall be elected, on the first *Wednesday* in *January* next in like manner, as is directed and prescribed for the annual elections.

SECT. VII. The members so elected shall continue in office until the day appointed for the annual elections. *Provided always,* That no inhabitant of the said town, unless he be a citizen of this commonwealth, shall have right to vote for members of the common-hall.

SECT. VIII. *Provided always,* and be it further enacted, That the powers

of the serjeant of the said town shall not extend to the execution of any process except such as shall be issued by the authority of the said town, nor to the collection of any taxes but those imposed by the common-hall; any law, custom, or usage to the contrary notwithstanding.

SECT. IX. So much of the act for incorporating the said town of *Petersburg*, as comes within the purview and meaning of this act, is hereby repealed.

C H A P. LXXXII.

An ACT giving RICHARD TOWNS and JOHN WOOLFOLK the exclusive right of conveying PERSONS in STAGE CARRIAGES to and from certain places for a limited time.

Passed the 19th of DECEMBER, 1787.

SECTION I. *W*HEREAS it is represented that *Richard Towns* and *John Woolfolk* have laid out and expended a considerable sum of money in the purchase of carriages and horses, for the purpose of conveying persons and baggage between *Richmond* and *Petersburg*, and between *Petersburg* and *Portsmouth*, which will be productive of considerable public convenience and utility: And whereas the said *Towns* and *Woolfolk* have undertaken to keep up and continue the said line of stages as aforesaid in a proper and sufficient manner, therefore it is reasonable that they should possess for a time, any emoluments resulting therefrom: *Be it therefore enacted by the General Assembly,* that the said *Richard Towns* and *John Woolfolk*, shall have the sole and exclusive right of conveying for hire, persons in stage-carriages between *Richmond* and *Petersburg*, and between *Petersburg* and *Norfolk* by the way of *Suffolk*, and to and from any intermediate place or places, for and during the term of three years; and shall and may demand and take for each passenger three pence three farthings per mile, and three pence three farthings per mile for every hundred and fifty pounds weight of baggage exceeding fourteen pounds, conveyed in any of the said stage-carriages.

SECT. II. If the said *Richard Towns* and *John Woolfolk*, by themselves, or any other, shall demand or receive any greater rates than are hereby allowed, he or they shall forfeit and pay the sum of twenty pounds, to be recovered with costs by action of debt, bill, plaint, or information, in any court of record, to the use of the party injured.

SECT. III. If any person or persons, other than the said *Richard Towns* and *John Woolfolk*, their agents or servants, establish or run any stage-carriages between either of the before mentioned places, or any intermediate place or places, and demand or take, directly or indirectly, any fee or reward whatsoever for conveying any person or persons, or their baggage, in a stage-carriage or carriages, between either of the before mentioned places, or any intermediate place or places, during the term aforesaid, he or they so offending, shall forfeit and pay, for every stage so run or established, the sum of one hundred pounds, and for every person, or one hundred and fifty pounds of baggage, by him or them so conveyed, the sum of ten pounds, to be recovered, with costs, by action of debt, bill, plaint, or information, in any court of record, to the use of the said *Richard Towns* and *John Woolfolk*.

SECT. IV. And if the said *Richard Towns* and *John Woolfolk* shall undertake to carry any passenger or baggage to any of the places herein mentioned, or any part of such distance, and shall fail to do so, either by such stage breaking down, the horses tiring, or by any other means, they shall refund whatever they may have received, or forfeit what they might be entitled to receive for such service.

SECT. V. The said *Richard Towns* and *John Woolfolk* shall, on or before the first day of *May* next, enter into bond, with sufficient security, in the General Court, or in the court of the counties of *Chesterfield* or *Prince George*, in the sum of one thousand pounds, payable to the Governor and his successors, for the use of the commonwealth, with condition for the due and faithful keeping up the said line of stages for and during the term aforesaid

C H A P. LXXXIII.

An ACT for establishing a TOWN in the county of HAMPSHIRE,

Passed DECEMBER the 12th, 1787.

SECTION I. *B*E it enacted by the General Assembly, That twenty acres of land, in the county of *Hampshire*, late the property of *Joseph Watson*, deceased, shall be and they are hereby vested in *Elias Poston*, *Henry Fry*, *Isaac Hawk*, *Jacob Hoover*, *John Winterton*, *Valentine Swisher*, *Rudolph Bumgarner*, *Paul McKeever*, *John Sherman Woodcock*, and *Isaac Zane*, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of *Watson*.

SECT. II. So soon as the said land shall be so laid off the trustees, or a majority of them, shall proceed to sell the lots at public auction for the best price that can be had, the time and place of which sale being previously advertised at the court-house of the said county, on three successive court-days, and convey the said lots to the purchasers, in fee, subject to the condition of building on each a dwelling-house sixteen feet square, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and retain the money arising from the sale of the said lots, until the title of the said land shall be determined by judgment of a court, and immediately thereafter pay the money to the person or persons to whom they shall be adjudged.

SECT. III. If the title to the said lands shall not be controverted within six years from the passing of this act, the said trustees shall then pay the money to the legal representatives of the said *Joseph Watson*, deceased.

SECT. IV. The said trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules for the regular building of houses thereon, as, to them, shall seem best.

SECT. V. In case of the death, removal out of the county, or other legal disability, of any one, or more, of the said trustees, it shall be lawful for the remaining trustees to elect others in their room, and the persons so chosen shall have the same power and authority as any other in this act particularly appointed.

SECT. VI. The purchasers of lots in the said town, so soon as they shall have built upon and saved the same according to the conditions of their respective deeds of conveyance, shall be entitled to and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns, in this state, not incorporated, hold and enjoy.

SECT. VII. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

SECT. VIII. The said trustees shall lay off the said lots and streets as contiguous to that part of the said land from whence the water issues, supposed efficacious in certain disorders, as the situation will admit of; and shall also lay off half an acre of land (to include the said spring) the length of which shall extend down the stream and be double the width: which half acre so laid off shall be, and the same is, hereby vested in the said trustees, and their successors, in trust, to and for the use of such persons as may resort thereto.

C H A P. LXXXIV.

An ACT to empower the Vestry of the Parish of Saint JAMES NORTHAM, in the County of Goochland, to sell the Glebe of the said Parish, and to lay out the money in purchasing a more convenient Glebe.

[Passed the 6th of DECEMBER, 1787.]

SECT. I. WHEREAS it is represented to this present General Assembly, that the Glebe-lands in the Parish of Saint James Northam, in the county of Goochland, are for the most part worn out and not stocked with timber sufficient to keep up the necessary repairs; and that the houses thereon are in a ruinous situation; and that it would be very advantageous to the inhabitants of the said parish, if the vestry or trustees thereof were empowered to dispose of the said glebe, and to lay out the money arising from the sale thereof in purchasing other lands for a glebe:

SECT. II. BE it therefore enacted by the General Assembly, That the said glebe-lands, with the appurtenances, be, and the same are hereby vested in the vestry or trustees of the said parish, in trust; NEVERTHELESS, that the said vestry or trustees, or the greater part of them, shall by deed or deeds of bargain and sale, sell and convey the said glebe, with the appurtenances, for the best price that can be got, to any person or persons who shall be willing to purchase the same; to hold to such purchaser or purchasers, his or their heirs and assigns forever.

SECT. III. AND be it further enacted, That the money arising by the sale of the said glebe, shall be by the said vestry or trustees laid out and applied towards purchasing a more convenient glebe, for the use and benefit of the inhabitants of the said parish.

C H A P. LXXXV.

An ACT to amend the act appointing TRUSTEES to sell part of the lands of John Todd, deceased, for the payment of his debts, and for other purposes.

[Passed the 29th of NOVEMBER, 1787.]

SECT. I. WHEREAS by an act of the last session, intituled "An act appointing trustees to sell part of the lands of John Todd, deceased, for the payment of his debts, and for other purposes," the tract of land wherein on the said John Todd resided at the time of his death was particularly reserved from being sold by the said trustees; AND WHEREAS it hath been represented to the present General Assembly, that it will be more advantageous to the representatives of the said John Todd, to sell the land whereon he resided at the time of his death, and reserve the lands whereon his widow Jane Todd now lives in lieu thereof:

SECT. II. BE it therefore enacted, That the said trustees may sell the tract of land whereon the said John Todd resided at the time of his death; and the tract whereon his widow now resides shall be, and the same is hereby reserved in lieu thereof; any thing in the said recited act to the contrary thereof notwithstanding.

SECT. III. AND be it further enacted, That James Overton shall be, and be hereby added to the former trustees, with the same power and authority as any one particularly named in the said recited act.

C H A P. LXXXVI.

An ACT to increase the allowance for PILOTAGE between Urbanna and Tappahannock.

[Passed the 3d of NOVEMBER, 1787.]

SECT. I. WHEREAS it hath been represented to the General Assembly, that the prices allowed for pilotage of vessels between Urbanna and Tappahannock, are inadequate to the duty;

SECT. II. BE it therefore enacted, That instead of three shillings and pence per foot, there shall be allowed and paid the sum of five shillings per foot for pilotage between Urbanna and Tappahannock; any law to the contrary notwithstanding.

C H A P. LXXXVII.

An ACT to amend the act for establishing certain INSPECTIONS of TOBACCO.

[Passed the 3d of NOVEMBER, 1787.]

SECT. I. WHEREAS doubts have arisen whether the inspectors of Lynch's and Rivanna warehouses are by law required to receive the duties and imposts on tobacco brought to such warehouses: For removing such doubts,

SECT. II. BE it enacted by the General Assembly, That the inspectors at the said warehouses of Lynch's and Rivanna, shall be, and they are hereby authorized and required, to receive the duties and impost on all tobaccos inspected in such warehouses; and shall account for, and pay into the public treasury, such duties and impost, in the same manner and under the like penalties, as other inspectors are by law directed. And the said inspectors shall give their manifest for such tobacco when required, which may thereupon be shipped by the owner thereof, without being reinspected at any other warehouse.

C H A P. LXXXVIII.

An ACT giving certain Powers to the TRUSTEES of the Town of Dumfries.

[Passed the 4th of DECEMBER, 1787.]

BE it enacted by the General Assembly, That the trustees of the town of Dumfries, in the county of Prince William, and their successors, or a majority of them, shall have power to erect or repair a market-house in the said town, to appoint a clerk of the market, to establish an assize of bread, to appoint and pay watchmen, remove nuisances and obstructions in the town or streets, and to repair and keep in order the main street in the said town, and to impose taxes not exceeding one hundred pounds annually on the titheables and property, real and personal, within the town, for the carrying into execution all or any of the powers hereby given them; to make provision and regulations for the collecting and accounting for the taxes so raised, by appointing a collector, and directing distress to be made for delinquencies, or by any other ways or means; and to make all such ordinances and regulations not contrary to the laws and constitution of this commonwealth, as shall by them or a majority of them be thought necessary for carrying this act into effect. Vacancies by death or otherwise of the said trustees, or any of them, shall be supplied by the election of the freeholders, housekeepers, and free male inhabitants of the said town, aged twenty one years, other than free negroes or mulattoes, who shall have resided therein for the space of six months, and who possess in their own right within the said town moveable property of the value of fifty pounds; which election shall be conducted by the sheriff of the said county, and held at the courthouse thereof in the said town, upon a day to be appointed for that purpose by the said trustees, or a majority of them; whereof ten days previous notice shall be given by the sheriff in the said town, who shall make return of the person elected, together with a fair copy of the poll by him taken, to the said trustees; who shall record the return with their other proceedings in books to be by them kept for that purpose. No person shall be capable of being elected a trustee who is not a freeholder and inhabitant of the said town at the time of election. Whenever a trustee shall cease to be a freeholder or an inhabitant of the said town, he shall thenceforth be considered as disqualified, and another shall be elected in his stead.

C H A P. LXXXIX.

An ACT to establish a TOWN in each of the Counties of MERCER and NELSON.

[Passed the 1st of NOVEMBER, 1787.]

SECT. I. BE it enacted by the General Assembly, That fifty acres of land lying on Kentucky River, near Harrod's Landing in the county of Mercer, the property of Walter Beall, are hereby vested in Hugh Magarity, Thomas Allen, Benjamin Bell, Christopher Greenup, Samuel McAfee, and

Stephen Arnold, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Warwick.

SECT. II. AND be it further enacted, That fifty acres of land lying at the mouth of Beachfork, on Salt River, in the county of Nelson, the property also of the said Walter Beall, are hereby vested in James Morrison, Francis Parpoint, Samuel Pottinger, Isaac Morrison, James Adams, Isaac Cox, Cuthbert Harrison, George Harrison, Andrew Hinds, John Kennedy, William Kendell, and Adkin Hill, gentlemen, trustees to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Beallborough.

SECT. III. THAT so soon as the said lands shall respectively be laid off into lots and streets, the trustees of each, or a majority thereof, shall proceed to sell the same at public auction, for the best price that can be had; the time and place of which sales shall be previously advertised for six months at the court-house of each of the counties of Mercer, Nelson, Lincoln, and Fayette; and convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and pay the money arising from such sales to the said Walter Beall, or his legal representatives.

SECT. IV. THE trustees of the said towns respectively, or a majority of either of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best.

SECT. V. IN case of the death, resignation, removal out of the county, or other legal disability of any of the said trustees, it shall be lawful for the remaining trustees, respectively, of either of the said towns, to elect others in their stead, who shall be vested with the same powers as any particularly appointed by this act.

SECT. VI. THE purchasers of the said lots, so soon as they shall have built upon and saved the same according to the condition of their respective deeds of conveyance, shall be entitled to, and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

SECT. VII. IF the purchaser of any lot shall fail to build thereon within the time before limited, the trustees of the town where such failure shall happen, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

C H A P. XC.

An ACT to empower the TRUSTEES of the FREDERICKSBURG ACADEMY, to raise a Sum of MONEY, by way of LOTTERY.

[Passed the 19th of NOVEMBER, 1787.]

BE it enacted by the General Assembly, That it shall be lawful for the trustees of the Frederickburg Academy, to raise, by lottery, a sum of money not exceeding five hundred pounds, for the purpose of supporting the said academy, and repairing and making additions to the buildings.

C H A P. XCI.

An ACT to establish a TOWN in the County of BOURBON.

[Passed the 11th of DECEMBER, 1787.]

SECT. I. BE it enacted by the General Assembly, That one hundred acres of land, lying on the lower side of Littlestone Creek, in the county of Bourbon, the property of John May and Simon Canton, are hereby vested in Daniel Boone, Henry Lee, Arthur Fox, Jacob Boone, Thomas Brooks, and George Miford, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Maysville.

SECT. II. SO soon as the said land shall be laid off into lots and streets, the trustees, or a majority of them, shall proceed to sell the same, at public auction, for the best price that can be had, the time and place of which sale being previously advertised at the court-house of the said county on three successive court-days; and convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house sixteen feet square, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and pay the money arising from the sale of the said lots to the said John May and Simon Canton, or their legal representatives.

SECT. III. THE said trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the lots, and to establish such rules for the regular building of houses thereon, as to them shall seem best and most convenient.

SECT. IV. IN case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect others in their room; and the persons so elected shall have the same power and authority as if particularly named in this act.

SECT. V. THE purchasers of lots in the said town, so soon as they have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

SECT. VI. IF the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

C H A P. XCII.

An ACT appointing COMMISSIONERS to receive such proof, as may be adduced by certain persons with respect to the destruction of their Property in the Borough of Norfolk in the year 1776.

[Passed the 3d of JANUARY, 1788.]

SECT. I. WHEREAS by an act passed by the General Assembly in May, one thousand seven hundred and seventy seven, Commissioners were appointed to ascertain the losses sustained by the late inhabitants of the Borough of Norfolk, by the destruction of their houses, which said Commissioners made a report of their proceedings to the General Assembly held in October, one thousand seven hundred and seventy eight: AND WHEREAS the General Assembly did, by a resolution passed at the last mentioned session, direct that the claims of certain persons should be postponed for further proof, and it is expedient that persons should be appointed to receive such proof:

SECT. II. BE it therefore enacted by the General Assembly, That Miles King, George Booker, Samuel Griffin, Willis Riddick, John Howel Brigs, Edwin Gray, and James Wilkinson, gentlemen, or any three of them, shall be, and they are hereby appointed, Commissioners to receive such proof as may be adduced in support of those claims which by the resolution above recited were postponed for further proof. The said Commissioners shall severally take an oath before a magistrate well and faithfully to discharge the trust hereby reposed in them, and shall have power to send for any papers, or records, and to summon before them any witnesses for their information. Every witness so summoned and attending the said Commissioners, shall receive the same allowance for his attendance as is settled by law for a witness attending a county court; to be paid by the party summoning such witness. Every witness failing to attend upon such summons, shall forfeit to the party, at whose request he was summoned, the sum of ten pounds, to be recovered by motion in the court of the county where such witness resides; provided the said witness has ten days notice of such motion, and cannot when such motion is made make a reasonable excuse for such non-attendance. The Commissioners hereby appointed shall make a report of their proceedings to the Executive, to be laid before the General Assembly at their next meeting.

SECT. III. PROVIDED ALWAYS, that no claim of any person or persons whatsoever, which shall have been presented to, and rejected by, the General Assembly at any time heretofore, shall be admitted or allowed by the said Commissioners.

C H A P. XCIII.

An ACT to authorise the COURT of Accomack County, to levy a Sum of MONEY for the Use of Charles Bagwell and the Executors of Alexander Stockley.

[Passed the 20th of NOVEMBER, 1787.]

SECT. I. WHEREAS it has been represented to the present General Assembly, that in the year one thousand seven hundred and seventy-two, Charles Bagwell and Alexander Stockley were church-wardens of the parish of Accomack, in the county of Accomack; and that they did, by virtue of an order from the said vestry, contract with a certain James Twiford to build a church in the said parish; and whereas the said vestry did afterwards refuse to permit the said church to be built, or to pay the said James Twiford for the materials which he had provided; in consequence whereof, the said Twiford commenced a suit against the said Charles Bagwell and Alexander Stockley, in the court of the said county, and hath recovered a judgment against them for the sum of one hundred and twenty-five pounds current money, and nine hundred and sixty-five pounds of tobacco, and fifteen shillings, for his costs; and it is just and right that the amount of the said judgment should be refunded to them:

SECT. II. BE it therefore enacted by the General Assembly, That the justices of the said county of Accomack shall, at the laying of their next county levy, levy the said sum of one hundred and twenty-five pounds current money, and nine hundred and sixty-five pounds of tobacco, and fifteen shillings, upon the titheable persons of the said parish of Accomack, deducting therefrom the said Charles Bagwell's and Alexander Stockley's proportion of the said levy. The said money shall be collected and accounted for in like manner as the county-levy, and shall be paid to the said Charles Bagwell and the executors of the said Alexander Stockley, in proportion to the sums that shall respectively be paid by them in discharge of the judgment aforesaid.

C H A P. XCIV.

An ACT for forming a new COUNTY out of the Counties of Augusta, Hardy, and Rockingham.

[Pased the 4th of DECEMBER, 1787.]

SECT. I. BE it enacted by the General Assembly, That from and after the first day of May next, all those parts of the counties of Augusta, Hardy, and Rockingham, within the following bounds, to wit: Beginning on the line of Rockingham county, on the North Mountain, opposite to Charles Wilson's on the South Fork, thence a straight line to the Clay Lick on the North Fork, thence to the top of the Allegana, and along the same and the east side of the Greenbrier-waters to the south-west fountain of the South Branch, and thence between the same and the waters of James-River, along the dividing ridge to the said North Mountain, and with the top of the same to the beginning, shall form one distinct county, and be called and known by the name of Pendleton.

SECT. II. A COURT for the said county of Pendleton shall be held by the Justices thereof on the first Monday in every month, after such county shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed. And the court of quarterly sessions for the said county of Pendleton, shall be held in the months of April, June, September, and December, in every year.

SECT. III. THE justices to be named in the commission of the peace for the said county of Pendleton, shall meet at the house of Zariah Stratton in the said county, upon the first court-day after the said county shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of, the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit of; and thenceforth the said court shall proceed to erect the necessary public buildings at such place; and until such buildings be completed, to appoint any place for holding courts, as they shall think proper. PROVIDED ALWAYS, that the appointment of a place for holding courts and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court-day when a majority shall be present.

SECT. IV. THE Governor, with advice of the Council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions as are by law appointed for other sheriffs.

SECT. V. PROVIDED ALSO, and be it further enacted, That it shall be lawful for the sheriffs of each of the said counties of Augusta, Hardy, and Rockingham, to collect and make distress for any public dues and officers fees which shall remain unpaid by the inhabitants thereof, at the time the said county shall take place, and shall be accountable for the same in like manner as if this act had not been made.

SECT. VI. AND the courts of the said counties shall have jurisdiction of all actions and suits which shall be depending before them at the time the said county of Pendleton shall take place; and shall try and determine the same, and award execution thereon.

SECT. VII. IN all future elections of a senator, the said county of Pendleton shall be of the same district as the county of Augusta.

C H A P. XCV.

An ACT for establishing an ACADEMY, and incorporating the TRUSTEES thereof.

[Pased the 31st of DECEMBER, 1787.]

SECT. I. WHEREAS the inhabitants of the counties of Harrison, Monongalia, Randolph, and Ohio, are, from their remote situation, deprived of the advantages arising from the establishment of the public seminaries within this state; and it is just and reasonable that the one sixth of the fees of the surveyors of the said counties, which are now applied towards the support of William and Mary College, should be applied to the establishment of a public seminary within one of the said counties;

SECT. II. BE it therefore enacted by the General Assembly, That his Excellency Edmund Randolph, Benjamin Harrison, Patrick Henry, Joseph Prentis, James Wood, George Mason, George Nicholas, John Harvey, Thomas Matthews, William Ronald, Henry Banks, William M'Clerry, John Evans, William John, Francis Worman, John Pearce Duvall, George Jackson, Benjamin Wilson, Nicholas Carpenter, John Powers, Archibald Woods, Moses Chapline, Ebenezer Zane, David Chambers, John Wilson, Jacob Westfall, junior, Robert Maxwell, and John Jackson, junior, gentlemen, shall be, and they are hereby

constituted a body politic and corporate, to be known by the name of *The Trustees of the Randolph Academy*, and by that name shall have perpetual succession and a common seal.

SECT. III. THE said trustees shall hold their first session at Morgan-Town in Monongalia county, on the second Monday in May next; and they shall then, or as soon after as conveniently may be, fix upon some healthy and convenient place within one of the counties of Harrison, Monongalia, Randolph, or Ohio, for the purpose of erecting thereon the necessary buildings for the said academy.

SECT. IV. THE before-named trustees and their successors, by the name aforesaid, shall be capable in law to purchase, receive, and hold to them and their successors forever, any lands, tenements, rents, goods, or chattels of what kind soever, which shall be given or devised to, or purchased by them for the use of the said academy, and to sell and dispose of the same in such manner as to them shall seem most conducive to the advantage of the said academy; except such lands as shall be given to the said academy by this commonwealth, which shall not be aliened without leave first obtained from the Legislature.

SECT. V. THE said trustees, by the name aforesaid, may sue and be sued, plead and be impleaded, in any court of law or equity.

SECT. VI. THE Y shall have power from time to time to establish such bye-laws, rules, and ordinances, not contrary to the constitution or laws of this commonwealth, as they shall deem necessary for the government of the said academy.

SECT. VII. THE said trustees shall elect a president, treasurer, clerk, and so many professors and masters as may be necessary.

SECT. VIII. THE president and other officers shall have fixed salaries and continue in office during good behaviour, to be judged of by the trustees, and they shall be ineligible as trustees so long as they continue in office. The said trustees shall hold two stated sessions in every year at the said academy at such times as they shall think most convenient; and in case a sufficient number do not attend to proceed to business, they may adjourn to the next session, or to any shorter time.

SECT. IX. IN cases of emergency the chairman at the request of any of the trustees shall call a meeting.

SECT. X. NOT less than seven of the said trustees shall constitute a board to determine upon any matter relative to the establishment, government or support of the said academy, or to the appointment of the officers and professors thereof, or the fixing their salaries; and no real estate belonging to the said academy shall be disposed of unless eleven of the said trustees shall concur in opinion thereupon.

SECT. XI. THE treasurer shall receive all monies accruing to the said academy and property delivered to his care, and pay or deliver the same to the order of the board of trustees; and before he enters on the execution of the duties of his office shall give bond and security for such sum as the trustees shall direct, payable to them and their successors, and conditioned for the faithful discharge of the trust reposed in him; and that he will, when required by the board of trustees, render to them a true account of all monies, goods, and chattels received by him on account of, and for the use of, the said academy.

SECT. XII. THE trustees, the president, professors, and other officers shall, before they enter on the execution of the duties of their office, take the oath of fidelity to the commonwealth, and an oath that they will faithfully discharge the trust reposed in them. The said oaths shall be administered to the said trustees in the courts of the counties respectively in which they reside, and to the president, professors, and other officers, by the chairman of the board of trustees.

SECT. XIII. UPON the death, resignation, or other legal disability of any of the said trustees, or of the president or other officers of the said academy; or in case any of the said officers shall be removed from office for any misconduct, the trustees shall, at their next or any succeeding session, supply the vacancy occasioned thereby.

SECT. XIV. THE surveyors of the said counties of Monongalia, Harrison, Randolph, and Ohio, shall not be accountable to the president and masters of William and Mary College, for any part of the fees which shall accrue to them after the first day of January, in the year one thousand seven hundred and eighty-eight: And the bonds given by them for the yearly payment of one-sixth part of their fees to the president and masters of the said college, shall be, and are hereby declared to be null and void, so far as relates to the fees which shall become due to them after the said first day of January, in the year last mentioned.

SECT. XV. EACH of the surveyors of the said counties shall, within one month after he shall be required by the board of trustees, give bond with sufficient security in a reasonable sum, for the yearly payment of one-sixth part of the fees which shall become due to him after the said first day of January, to the said trustees; and in case any one of the said surveyors shall fail or refuse to give such bond and security, he shall forfeit and pay to the said trustees the sum of one hundred pounds, to be recovered by motion in the court of the county of such surveyor, upon giving him ten days previous notice of such motion: And each of the said surveyors shall annually forfeit and pay the like sum to the said trustees, to be recovered in the same manner, until he shall give such bond and security.

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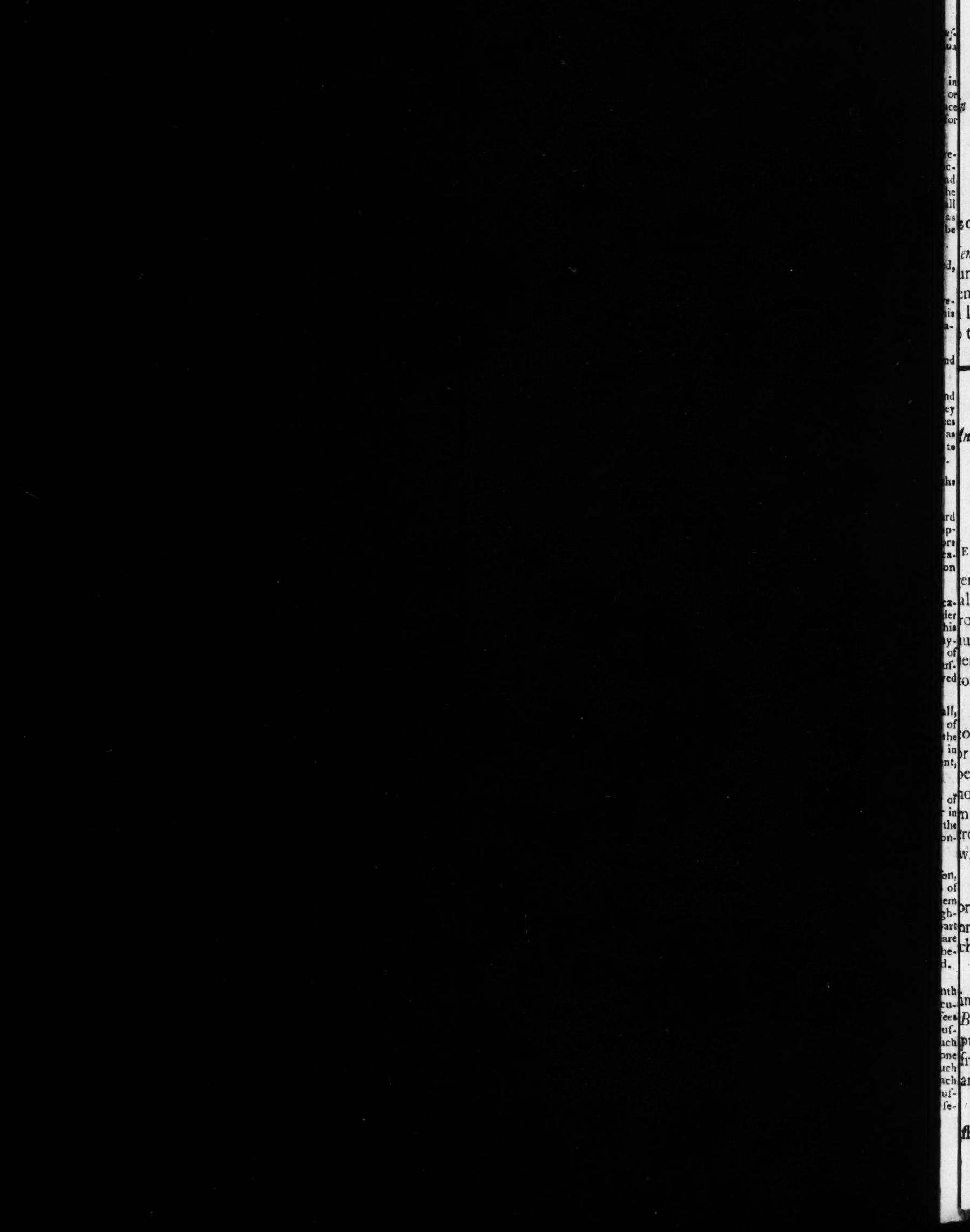
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C H A P. XCVI.

ACT appropriating one sixth of the Surveyors fees in the Kentucky District, to the use of the TRANSYLVANIA SEMINARY.

[Passed DECEMBER 13th 1787]

SECTION I. BE it enacted by the General Assembly, That the one-sixth of the Surveyors Fees hereafter arising, within that part of this Commonwealth, called and known by the name of the Kentucky District, instead of being paid to the Professors of William and Mary College, shall be paid by the Surveyors thereof, to the Trustees of the *Transylvania Seminary*, to be by them applied to the use of the said Seminary, to be accounted for by the Surveyors within the said District, and recovered by the said Trustees in like manner as they were accounted for and recovered by the said Professors: Any law, usage or custom to the contrary thereof, notwithstanding.

C . H A P. XCVII.

ACT for regulating the rights of CITIES, TOWNS, and BOROUGHS, and the jurisdiction of CORPORATION COURTS.

[Passed JANUARY 8th 1788.]

SECTION I. WHEREAS the accumulating, different and distinct offices of power and authority in the same persons, has a tendency to introduce abuses, and to create an improper and dangerous influence in a few individuals, contrary to the spirit and genius of republican government, and naturally productive of oppression, and subversive of liberty: Be it therefore enacted by the General Assembly, That from and after the first day of March next, no person being a member of any corporation court, court of hustings, or common-council of any city, town or borough within this commonwealth, shall while a member of such corporation court, court of hustings or common-council be capable of acting as a justice of any county court.

SECT. II. AND be it further enacted, That from and after the said first day of March next, the respective corporation courts, or courts of hustings, of any city, town or borough, shall have jurisdiction only in suits in or controversies instituted between the respective inhabitants or citizens of such city, town or borough, and between one or more of the inhabitants or citizens of such city, town or borough, and any person or persons not an inhabitant or inhabitants of this commonwealth, and in either case, only where the contract hath been made, or the cause of action hath accrued within such city, town or borough; and in all such suits and controversies, their respective jurisdictions shall not be limited to any particular sum, but shall be co-extensive with the jurisdiction of the county courts.

SECT. III. PROVIDED nevertheless, That nothing in this act contained, shall be construed to prejudice or in any manner affect, any suit now pending, or which may be instituted in any such corporation court, or court of hustings, before the said first day of March next, nor to prejudice, or in any manner affect the charters of the city of *Williamsburg*, and borough of *Norfolk*, or either of them.

SECT. IV. AND WHEREAS it is contrary to the true principles of representation, that a freehold estate in any particular place should enable the possessor to vote in the elections of different and distinct places.— Be it enacted, That in any city, town or borough, which at any time hereafter, shall obtain and enjoy the privilege of sending, in its own right, a representative to the House of Delegates of this commonwealth, the freeholders thereof shall be, and they are hereby declared incapable of voting in the election of delegates for any county, in virtue or right of their respective freehold estates within any such city, town or borough.

SECT. V. AND be it further enacted, That so much of any and every law as is contrary to this act shall be, and is hereby repealed.



